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LAWS, JOINT RESOLUTIONS AND MEMORIALS,
PASSED AT THE NINTH SESSION
OF THE
LEGISLATIVE ASSEMBLY
OF THE
TERRITORY OF NEBRASKA,

BEGUN AND HELD AT OMAHA CITY, NEBRASKA,

JANUARY 7, A. D. 1864.

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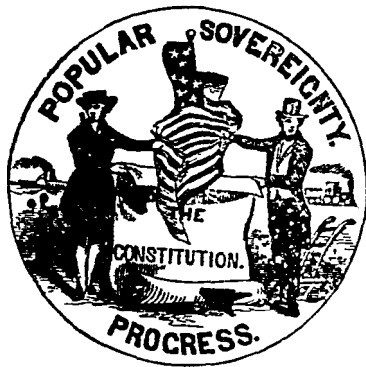
PART FIRST.



GENERAL LAWS.

TERRITORY OF NEBRASKA, }
SECRETARY'S OFFICE

I, ALGERNON S. PADDOCK, Secretary of the Territory of Nebraska, do hereby certify that I have this day delivered to TAYLOR & MCCLURE, Public Printers, true and correct copies of all Laws, Joint Resolutions and Memorials now on file in this office, passed at the Ninth Session of the Legislative Assembly of the Territory of Nebraska, begun and held at Omaha City, on the seventh day of January, in the year of our Lord one thousand eight hundred and sixty-four.



In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the Territory of Nebraska.

Done at OMAHA this twentieth day of February, in the year of our Lord one thousand eight hundred and sixty-four.

ALGERNON S. PADDOCK,
Secretary of the Territory of Nebraska.

GENERAL LAWS.

AN ACT

To revise "An Act to Provide for the Valuation and Assessment of the Real and Personal Property, and for the Levying and Collection of Taxes in the Territory of Nebraska," Approved January 11, 1861.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the following classes of property shall be exempt from taxation, and may be omitted from the list herein required to be given:

First. The property of the United States and of this Territory, including school lands. What property exempt.

Second. The property of a county, incorporated city or town, or school district, when devoted to the public use and not held for pecuniary profit.

Third. Public grounds, by whomsoever devoted to the public use, and including all places for the burial of the dead.

Fourth. The engines and implements used for extinguishing fires, with the grounds used exclusively for their buildings and for the meetings of fire companies

Fifth. The grounds and buildings of library, scientific, benevolent and religious institutions, or societies devoted solely to the appropriate objects of these institutions, not exceeding three acres in extent, and not leased or otherwise used with a view to pecuniary profit.

Sixth. The books, papers, furniture, scientific or other apparatus pertaining to the above institutions, and used solely for the purpose above contemplated, and the like property of students in any such institutions, used for the purposes of their education.

Seventh. Money and credits belonging exclusively to such institutions, and devoted solely to sustaining them, but not to exceed in amount the sum prescribed in their charter or act of incorporation.

Eighth. Animals not specified in the next section; the wool shorn from the sheep of the person giving the list, and his crop harvested within one year previous to the

What property
exempt.

listing; private libraries not exceeding one hundred dollars in value, and family pictures; the kitchen furniture of each family, the beds and bedding requisite for the use of the family, and one bed and bedding thereof for each single person not a member of another family; the apparel of every person and family, actually used for wearing, with all food provided for each family; but no person for whom a compensation for board or lodging is received or expected, is to be considered a member of a family within the intent and meaning of this act.

Ninth. The polls or estates, or both, of persons who by reason of age or infirmity may, in the judgment of the assessor, be unable to contribute to the public charge, such opinion being subject to revision by the county board of equalization.

What property
taxable—enu-
meration.

SEC. 2. All other property, real and personal, within this Territory, is subject to taxation in the manner herein directed; and this section is intended to embrace lands and lots in towns, including lands bought from or donated by the United States and from this Territory, and whether bought on a credit or otherwise; ferry franchises and toll bridges, which, for the purposes of this act, are to be considered as real property; horses and neat cattle, mules and asses, sheep and swine; money, whether in possession or on deposit, and including bank bills, money, property or labor due from solvent debtors on contract or in judgment, and whether within this Territory or not; mortgages and other securities, and accounts bearing interest; stock or shares in any bank or company incorporated by this Territory, or any other State or Territory, and situated in or transacting business in this Territory; public stocks, loans, household furniture not exempted, and including gold and silver plate, musical instruments, watches and jewelry; private libraries for their value over one hundred dollars; pleasure carriages, stage hacks, omnibuses and other vehicles for transporting passengers; wagons, carts, drays, sleighs, and every other description of vehicles or carriages; boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of this Territory solely or not, if owned wholly or in part by persons who are inhabitants of this Territory; annuities, but not including pensions from the United States or any other State of the Union, money invested in manufacturing, including buildings, machinery, and materials; all moneys used in merchandizing; personal property of every description belonging to persons or companies doing freighting or transporting business across the plains shall be valued at the usual prices of similar property at the time and place of listing, and shall be assessed at the respective places of residence of such person or persons; to-

gether with all other property not above exempted, though not herein specified.

SEC. 3. The term "credits," as used in this act, includes every claim and demand for money, labor, or other valuable thing; and every annuity or sum of money receivable at stated periods; and all money in property of any kind, and secured by deed, mortgage, or otherwise; but pensions from the United States, or any State, are not included in the above terms. "Credits" defined.

SEC. 4. All taxable property, personal and real, shall be listed and valued each year, at its actual value at the place of listing, the same beginning with the year 1864. That in the assessment of real property, used and occupied exclusively for agricultural purposes, and other than lots situated within the limits of any city, town or village, the assessor shall not value the same higher by reason of any improvements thereon made exclusively for agricultural purposes, unless such improvements exceed the sum of one thousand dollars, when such excess only shall be assessed. Property to be listed annually at its cash value in money—exemption of \$1,000

SEC. 5. On or before the first Monday of February in each year, the county commissioners of each county are required to furnish the precinct assessors with suitable notices and blank forms for the assessments, and such instructions as may be needful to secure full and uniform assessment and returns, and at the same time furnish each precinct assessor a list of all the entered lands in his precinct subject to taxation. Assessor's blanks—when and by whom furnished.

SEC. 6. The list of each person shall contain, first, his lands by townships, range and section, and any division or part of a section lying in the county in which the list is required. And when such parcel of land is not a congressional division or subdivision, it shall be listed and described in some other mode, sufficient to identify it; and his town lots, naming the town in which they are situated, and their proper description by number and block, or otherwise, according to the system of numbering in the town; his personal property by the following particulars: amount of capital employed in merchandise, amount of capital employed in manufacturing, number of horses, number of mules and asses, number of neat cattle, number of sheep, number of swine, number of carriages and vehicles of every description, amount of moneys and credits, amount of taxable household furniture, amount of stock or share in any incorporated company or company not incorporated, amount of all other personal property not exempt by law and not enumerated, the number of polls. Tax lists—what they shall contain.

SEC. 7. The above list of items may be extended at the discretion of the county commissioners, so as to obtain such facts as they may deem desirable. Lists may be extended.

List to be signed
and sworn to.

SEC. 8. The list shall be signed and sworn to by the person making it, and the oath may be administered either by the assessor or by any other officer authorized to administer oaths, and shall be certified to by him, and the oath may be printed upon the blank form, and shall be in substance as follows:

Form of oath:

I, (A. B.) solemnly swear that I have listed above (or within) all the lands, town lots, personal property, money and credits, subject by law to taxation, and owned by me, or required by law to be listed by me for any other person or persons, (insert as guardian, husband, parent, trustee, executor, administrator, receiver, accounting officer, partner, agent, or factor, as the case may be) according to the best of my knowledge.

When a person
fails to list his
property, assess-
or to list same.

SEC. 9. When any person who is required to render the above statement fails to do so, from absence or sickness, and when any person refuses to do so, or to take or subscribe to the oath required, the assessor shall ascertain, according to the best information he can obtain, the number and value of the several species of property required; and to that end he is hereby authorized to examine on oath any person whom he supposes to have knowledge in relation thereto; and if any person refuses to testify he shall forfeit the sum of five dollars, to be recovered by civil action in the name and to the use of the county; and the assessor shall make a minute of the names of persons refusing to swear to this list, or to testify as to the value of property, and shall note the same on the list and return the same to the board of county commissioners; and the county board of equalization shall add fifty per cent to the amount of property returned by the assessor as the list of the person refusing to swear.

May examine
witnesses.

Refusal to swear
—penalty.

50 per cent. to be
added in certain
cases.

Statements to be
endorsed.

SEC. 10. The said statements of persons refusing to swear shall be endorsed with the name of the person whose property is therein listed, and the assessors shall file them in alphabetical order and return them to the office of the county clerk by the second Monday of April next ensuing, at which time, or before, he shall also prepare and deliver his assessment roll.

What property
to be valued by
assessor.

SEC. 11. All property is to be valued by the assessor except such as is herein required to be valued by the owner.

Oath of assessor
to his return.

SEC. 12. The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attached to the assessment roll, which oath is to be in substance as follows:

I, (A. B.) Precinct Assessor, in and for the ——— Precinct in ——— county, Nebraska, do solemnly swear that the value of all property, moneys and credits, of which a statement has been made and verified by the oath of the

person required to list the same, is hereby truly returned, as set forth in such statement, that in every case where I have been required to ascertain the amount or value of the property of any person or body corporate, I have diligently and by the best means in my power endeavored to ascertain the true amount and value, and that, as I verily believe, the full value thereof is set forth in the above returns; and that in no case have I knowingly omitted to demand of any person of whom I was required to make it, a statement of the amount and value of his property which he was required by law to list, nor have I connived at any violation or evasion of any of the requirements of the law in relation to the assessments of property for taxation.

SEC. 13. Every inhabitant of this Territory, of full age and sound mind, unless excepted by the provisions of this act, shall list all property subject to taxation in this Territory of which he is the owner, or has the control or management in the manner herein directed, but the property of a ward is to be listed by his guardian; of a minor, having no other guardian, by his father, if living; if not, then by his mother, if living; if not, then by the person having the property in charge; of a married woman, by her husband; but if he be unable or refuse, then by herself; of a beneficiary for whom property is held in trust, by the trustee; and the personal property of a decedent, by the executor, administrator, or heirs; of a body corporate, company, society, or partnership, by the principal accounting officer, agent, or partner; property under mortgage or lease to be listed by and taxed to the mortgagor or lessor, unless it be listed by the mortgagee or lessee.

Who to list
property for tax-
ation.

SEC. 14. Commission merchants, and all persons trading or dealing on commission, and consignees authorized to sell, when the owner of the goods does not reside in this Territory, are, for the purposes of taxation, required to list all the property in their possession.

Same.

SEC. 15. All personal property is to be listed, assessed, and taxed in the county where the owner resides, on the first of March on the then current year; but if the owner resides out of the Territory, it is to be listed and taxed where it may be at the time of listing; and if the agent or person having charge of such property neglects to list it, he will be subject to the penalty hereinafter provided.

Personal prop-
erty — where to
be listed and tax-
ed.

SEC. 16. A person required to list property in behalf of another, shall list in the same county and precinct in which he would be required to list if it were his own (except as herein otherwise directed); but he must list it separate from his own, naming the person to whom it belongs; but the undivided property of a person deceased, belonging to his heirs, may be listed as belonging to such heirs, without enumerating them.

Property listed
in behalf of an-
other.

Corporate prop-
erty — how and
by whom listed.

SEC. 17. The president, secretary, or principal accounting officer of every canal or slackwater navigation company, railroad company, turnpike company, plankroad company, bridge company, insurance company, telegraph company, or other joint stock company, except banking or other corporations whose taxation is specifically provided for in this act, for whatever purpose they may have been created, whether incorporated by any law of this Territory or not, shall list for taxation, verified by the oath or affirmation of the person so listing, all the personal property which shall be held, to include road-bed, depots, water and wood stations, and such other realty as is necessary for the daily running operations of the road; moneys and credits of such company or corporations within the Territory, at the actual value in money, in manner following. In all cases, return shall be made to the several clerks of the respective counties where such property may be situated, together with a statement of the amount of said property which is situated in each incorporated village or city therein. The value of all movable property shall be added to the stationary and fixed property.

Personal prop-
erty of persons
doing business in
more than one
county—how lis-
ted and taxed.

SEC. 18. When a person is doing business in more than one county, the property and credits existing in any one of the counties are to be listed and taxed in that county; and credits not existing in, nor pertaining especially to the business in any one county, are to be listed and taxed in that county where his principal place of business may be; each individual of a partnership is liable for the taxes due from the firm.

Insurance com-
panies; how tax-
ed.

SEC. 19. Insurance companies, of every description, transacting business in this Territory, shall be taxed in the same amount and at the same rate that all other property is taxed, upon the amount of premiums taken by them during the year previous to the listing in the county where the agent conducts the business; and the agent shall render the list, and shall be personally liable for the tax, and if he refuses to render the list, or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor, and the county board of equalization may, at their discretion, add fifty per cent. to the amount returned by the assessor.

Depreciated
bank notes and
annuities — how
listed.

SEC. 20. Depreciated bank notes and depreciated stocks or shares in corporations or companies, may be listed at their current value and rate; credits shall be listed at such sums as the person listing them believes will be received, or can be collected, and annuities at the value which the person listing believes them to be worth in money.

Deductions from
credits.

SEC. 21. In making up the amounts of credits which any person is required to list, he will be entitled to deduct from the gross amount the amount of bona fide debts owing

by him; but no acknowledgment made for the purpose of being so deducted shall be considered a debt within the intent of this section, and so much only of any liability of such person as security for another shall be deducted as the person making the list believes he is legally or equitably bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor; and if there are other sureties able to contribute, then so much only shall be deducted as he in whose behalf the list is made will be bound to pay or contribute; but no person will be entitled to a deduction on account of an obligation of any kind given to an insurance company for the premium of insurance; nor on account of an unpaid subscription to any society; nor on account of a subscription to, or installments payable on the capital stock of any company or corporation, nor upon any account whatever, unless such deduction be made from the amount of moneys or credits, or both, by such person listed.

SEC. 22. Any person owning or having in his possession or control in this Territory, with authority to sell the same, any personal property, purchased either within or out of the Territory, with a view of selling the same at an advanced price or profit, or which has been consigned to him for the purpose of being sold within the Territory, shall be held to be a merchant for the purposes of this act; such property shall be listed for taxation, and in estimating the value thereof the merchant shall take the average value of such property in his possession or control, at the time of listing.

Commission
merchants—how
taxed.

SEC. 23. Any person who purchases, receives, or holds personal property of any description, for the purpose of adding to the value thereof, by any process of manufacturing, refining, purifying, or by the combination of different materials with a view of making gain or profit by so doing, and by selling the same, shall be held to be a manufacturer, for the purposes of this act, and he shall list for the taxation the value of such property in his hands, estimated as directed in the previous section in case of merchants; but the value shall be estimated upon the materials only entering into the combination or manufacture.

Who shall be
deemed a manu-
facturer.

SEC. 24. On or before the second Monday of April, annually, the several precinct assessors shall make out and deliver to the county clerk as assessment roll, consisting of the following items, to wit:

Assessment roll
—contents and
form for lands.

First. A list of all the taxable lands in such precinct, in numerical order, beginning with the lowest numbered section, in the lowest numbered township, in the lowest numbered range in the precinct, and ending in the highest

numbered section, township and range, with the number of acres in each tract set opposite the same in a column, provided for that purpose, and the assessed value thereof in another column, and the name of the owner or person listing the same in another column, with the columns of acres and values footed up. Such list shall be as nearly as practicable in the following form :

Return of taxable lands in ——— Precinct, in ——— County, Nebraska, as assessed for the year 18—.

PART OF SECTION.	SEC.	TOWNSHIP.	RANGE	ACRES	VAL.	OWNERS' NAMES.

Form for town
lots.

Second. A list of all the town lots in each town or city in each precinct, in like numerical order with the valuation of each lot or part of lot, and the name of the person listing the same, opposite with the column of values footed up substantially in the following form :

Return of Lots in the City (or Town) of ———, in ——— Precinct, ——— County, Nebraska, as assessed for the year 18—.

BLOCK.	LOT.	VALUE.	OWNER.

Form for per-
sonal property.

Third. A list in alphabetical order of all the persons and bodies corporate in whose names any property or anything taxable other than the real estate, has been listed, with a sufficient number of columns opposite each name, in which to enter the numbers of values, or both, of the several species of property or other interests required by law to be listed, with the columns of numbers and values footed up. Such list shall be as nearly as practicable in the following form, to wit :

In case of refusal or neglect to list property, assessor to proceed.

SEC. 25. In every case where a person required to list property for himself or in behalf of another, shall neglect or refuse to list the same, the assessor shall proceed as directed in section nine of this act, and in the return of personal property, opposite the name of such person, he shall write the words "by the assessor," when the list was made by himself, together with the words "absent" or "sick," or the words "refused to list" or "refused to swear," or such other words as will express the cause why the person required to make the list, did not make it; and a neglect to make it shall be taken as a refusal.

Precinct assessors to meet to equalize assessments.

SEC. 26. The precinct assessors of each county shall meet at the office of the county clerk, on the first Monday in April of each year, for the purpose of equalizing the assessments, and shall return their lists to the county clerk on or before the second Monday of the same month.

Commissioners to constitute county Board of Equalization. Shall meet third Monday in April, annually.

SEC. 27. The county commissioners of each county shall constitute a board of equalization for the county, and said board, or any two of them, shall hold a session of at least three days at the county seat, commencing on the third Monday of April of each year, for the purpose of correcting the assessment roll in their country, and during the sitting of said board, any person feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any supposed error in the listing or valuation of his property, whether real or personal, and if any returned as refusing to render a list, or to be sworn thereto, or to the list of property of another, can show good cause for such failure or refusal, the penalty herein provided may be remitted.

County clerk to make abstract of assessment rolls.

SEC. 28. As soon as practicable after the assessment rolls are equalized and corrected as provided in the last section, and before the first Monday of May next ensuing, the county clerk shall make out an abstract thereof, containing the whole number of acres of land listed in the county, and the total value thereof; the total valuation of town lots, the amount of property invested in merchandise, the amount of property invested in manufactures, the number of horses and their total value, the number of mules and asses, and their total value; the number of cattle and their total value; the number of sheep and their total value; the number of swine and their total value; the number of carriages and vehicles of every kind, and their total value; the total value of money and credits; the total value of taxable household furniture; the total value of stock or shares; the total value of all other personalty not enumerated under the foregoing heads, and the number of polls, which abstract the clerk is directed to transmit without delay to the auditor of the territory, and the county commissioners are authorized to direct the clerk

to add to the above list of items, such other items as they may deem advisable; and it shall be the duty of the auditor of the territory to furnish such forms for the use of the county commissioners, assessors, clerks, and other officers of the revenue, as shall secure uniformity of proceedings and returns throughout the territory.

Auditor of the territory to furnish forms, &c.

SEC. 29. The governor, territorial auditor and treasurer, shall constitute the territorial "board of equalization," (or the majority of them) and said board of equalization shall hold a session at the capitol of the territory, commencing on the fourth Monday of May of each year, and it shall be the duty of said board to examine the various county assessments, and to decide upon the rate of the territorial tax, the territorial school tax and the territorial sinking fund tax to be levied for the current year, together with any other general or special territorial taxes required by law to be levied, and to equalize the levy of such taxes throughout the territory; but such equalization shall be made by varying the rate of taxation on the different counties in case the said board of equalization are satisfied that the scale of valuation has not been adjusted with reasonable uniformity by the different assessors.

Territorial board of equalization.

SEC. 30. The rate of the general Territorial tax, shall not be less than one-half mill, nor more than two and a half mills on the dollar valuation; the rate of the Territorial school tax shall not be less than one half a mill, nor more than two mills on the dollar valuation, and the rate of the Territorial sinking fund tax shall not be less than one-half of a mill nor more than two mills on the dollar valuation, in any county in the Territory.

Minimum and maximum rates of taxation.

SEC. 31. On or before the second Monday of June the Territorial Auditor is required to transmit to the county clerk of each county, a statement of the rate of taxation required in said county for the general Territorial tax, the Territorial school tax, and the Territorial sinking fund tax, as directed to be levied and collected by the Territorial board of equalization: should the Territorial board of equalization fail to fix the rate of taxation, in any or all of the counties, then the auditor is required to notify the county clerk that the rate to be levied and collected in such county or counties, is the maximum rate provided in section twenty-nine of this act.

Ter. Auditor to transmit rate of taxation, annually, to county clerks before 2nd Monday in June.

SEC. 32. On the first Monday in July of each year, the county commissioners shall meet at the county seat, to levy the necessary taxes for the current year, and they may levy the taxes at any time after the first Monday of July, if the statement from the Territorial board of equalization has not been received by such levy shall not be postponed for more than ten days, and they shall levy taxes as herein directed.

County commissioners to fix rate of county taxation--when.

Rate of Ter. tax
to be fixed by the
Ter. board of
equalization—
except, &c.

SEC. 33. The rate of the general Territorial tax, the Territorial school tax, and the Territorial sinking fund tax shall be as directed by the Territorial board of equalization, but in case the statement of the levy of such taxes as hereinbefore directed, has not been received by the county clerk within ten days after the first Monday in July, then the said county commissioners shall levy the maximum rate of such taxes provided for in section thirty of this act.

Rate for county
purposes, &c.

For ordinary county revenue, including the support of the poor, not more than four mills on the dollar; for roads, a poll tax of one dollar or one day's work and a land tax in any rate not exceeding three dollars to the quarter section, to be paid in money, or in labor at the rate of one dollar and fifty cents per day, at the option of the person so taxed, and the receipts of the district supervisor for labor done, with his sworn affidavit attached to said certificate, that eight hours actual labor has been done for each day's work certified in said certificate, naming therein the person who did said labor, and the time when and in what road district the same was done; and no treasurer shall receive any certificate in discharge of any road tax herein provided for, without such sworn affidavit accompanying the same; (provided, the county treasurer be authorized and required to furnish the supervisor with government revenue stamps to attach to said affidavits, and charge the same to the county) shall be received by the county treasurer for their several amounts in discharge of said land tax.

Revenue stamps.

For county sinking fund, such rate as in the estimation of the commissioners will pay one year's interest on all the outstanding debt of the county, with fifteen per cent. of the principal.

Rate for school
purposes.

SEC. 34. No special, township, or district school taxes, hereafter levied pursuant to any existing law, for the purpose of building or repairing school houses or for any other purpose, shall exceed in any one year the rate of two mills on the dollar of the assessed valuation of the property in any school, township, or district whereon the same may be levied; provided, that qualified voters in any school district or precinct, shall have the power and authority to increase said district or precinct school tax by a vote of the majority of the electors of said school district or precinct, at an election to be held for that purpose, of which election previous notice shall be given by the clerk of the board of education of said school district or precinct, for at least ten days previous thereto, by posting written or printed notices at three public places in said district or precinct, stating the object of such election and the time and place of holding the same in said school district or precinct, as

Proviso.

the case may be, shall then and there determine for or against an increase of said tax, and if a majority of said electors shall vote in favor of an increase of said school tax in such district or precinct, the board of education shall then determine the amount of such, not exceeding in one year ten mills on each dollar valuation, which amount so determined shall be returned to the proper officers provided by this act.

SEC. 35. As soon as practicable after the taxes are levied, the county clerk shall make out a tax list containing, County clerk to make out tax list—what it shall contain.

First. A list in alphabetical order of all the persons and bodies corporate in whose name any property other than real estate has been listed with the amount or valuation thereof in a separate column opposite the name, and the total amount of all the taxes carried out in another column.

Second. A list of all the taxable lands in the county (not including town lots) in numerical order, commencing with the lowest numbered section in the lowest numbered township in the lowest numbered range in the county, and ending with the highest numbered section, township and range, with the names of the persons or parties in whose names each subdivision was listed opposite each subdivision on the margin or in a column provided for that purpose, with the valuation of each tract, and the several species of taxes and the total of all the taxes carried out in separate columns opposite each tract in the same manner as provided in the alphabetical list of names.

Third. A list of all the city or town lots in each city or town in the county, commencing with the lowest number and ending with the highest number in each city or town, with the name of the person or party listing each lot or part of lot opposite the same, and the valuation and several species of taxes, and total taxes carried out in separate columns in the same manner as hereinbefore provided in respect to personal property and lands.

SEC. 36. The tax list, when completed, shall be kept by the county clerk as the property of the county; the clerk shall also prepare a duplicate of the tax list for his county, and deliver the same to the county Treasurer on or before the first day of November following, the date of the levy for the current year. Tax list to be retained by clerk.

SEC. 37. The tax list and duplicate shall be as nearly as practicable in the following form, to-wit: Form of tax list and duplicate.

SEC. 38. An entry is required to be made upon the tax list and its duplicate, showing what it is, and for what county and year it is, and the county commissioners shall attach to the lists, their warrants under their hand and official seal, in general terms, requiring the treasurer to collect the taxes therein levied according to law; and no informality in the foregoing requirements, shall render any proceedings for the collection of taxes illegal; the county clerk shall take the receipt of the county treasurer on delivering to him the duplicate tax list with the warrant of the county commissioners attached, and such list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

Commissioners to make an entry on tax list and duplicate.

SEC. 39. The county treasurer of each county shall be the collector of the taxes, and it shall be the duty of the treasurer to attend at the county seat at all times, to receive the taxes not yet paid, and he is also authorized and required to collect so far as practicable, the taxes remaining unpaid on the list of the former year or years; in all cases where taxes are paid, he shall give a receipt to the person paying the same.

County treasurer to be collector of taxes.

SEC. 40. Territorial warrants are receivable for the amount payable into the Territorial treasury, on account of the general Territorial tax, and county warrants are receivable at the treasury of the proper county for the amount payable into the county treasury, and city warrants shall be received for city taxes, but United States treasury notes, or their equivalent, only are receivable for school taxes and Territorial sinking fund taxes, and such other taxes as are, or may be required by law to be paid in cash, and road and poll taxes may be discharged as provided in section thirty-three.

What kind of funds receivable for the various taxes.

SEC. 41. Whenever any taxes are paid to the county treasurer, the treasurer shall make out duplicate receipts for the same, which duplicate receipts shall correspond in number, date, amount and in every respect shall be precise copies of each other, one of which shall be delivered to the person paying such taxes, and the other shall within six days be filed by the treasurer with the county clerk, and such duplicate receipts shall specify the land or other property on which such tax was assessed according to its description on the tax duplicate, or in some other sufficient manner, and shall also specify the amount of each separate and distinct fund in separate or distinct lines or columns, and whether the said separate and distinct funds were paid in cash or in Territorial warrants, county or road orders or supervisors' receipts, as the case may be.

Treasurer to give duplicate receipts when taxes are paid—form.

SEC. 42. The tax receipt and duplicate shall be substantially in the following form, to wit:

Form of tax receipt and duplicate.

No. —

Treasurer's Office, _____ County, Nebraska, }
 _____ 18—. }

Received of _____ Dollars, in full of the following taxes for the year 18— on the annexed property or real estate :

PART OF SECTION, OR NAME OF TOWN.	Section or Lot.	Town or block.	Range or Lot.	Acres or block.	KIND OF TAX.	AMOUNT OF TAXES.			
						Paid in Cash.	Paid in Warrants.	Interest.	TOTAL.
					Territorial.				
					Territorial school tax.				
					Territorial sinking fund tax.				
					County tax.				
					County sinking fund.				
					Land road tax.				
					Road Poll tax.				
					District school tax.				
					Advertising fees.				

Treasurer.

By. _____ Deputy.

SEC. 43. It shall be the duty of the county clerk on receiving any duplicate tax receipt, from the treasurer, forthwith to examine the same and compare it with the tax list in his possession, and see if the total amount of taxes and the several amounts of the different funds are correctly entered and set forth in such receipt, and in case it shall appear that the treasurer has not collected the full amount of taxes and interest which, according to the tax list and the terms of the receipt, he should have collected, then the county clerk shall forthwith charge the treasurer with the amount such receipt falls short of the true amount, and the treasurer shall be liable on his official bond to account for and pay over the same.

County clerk to examine treasurer's receipts.

SEC. 44. All tax receipts issued by the county treasurer shall be numbered consecutively, commencing with number one on the first receipt issued for the taxes of any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt, but shall keep a separate and distinct series of numbers of receipts issued for the taxes of each year for which the same have been levied and assessed in this Territory, the receipts for the taxes of 1859 being the first series of numbers, those for 1860 the second series, and so on, and shall continue such numbers to the end of his term of office; and when his successor in office is qualified and enters upon the discharge of his duties, he shall commence back to number one of each series of numbers and continue the same during his term of office.

Receipts to be numbered consecutively.

SEC. 45. Whenever any taxes are paid, the treasurer shall write on the tax duplicate opposite the description of the real estate or property whereon the same were levied, the word "Paid," together with the date of such payment and the name of the person paying the same; and the county clerk on receiving the duplicate receipt shall forthwith make the same entries on the tax list in his possession.

Treasurer to endorse payments on duplicate.

SEC. 46. The county treasurer is required to keep a cash book, in which he shall enter an account of all moneys by him received, specifying in proper columns provided for that purpose, the date of the payment, the number of the receipt issued therefor, by whom paid, and on account of what fund or funds the same was paid, whether Territorial, county, school road, sinking fund, or otherwise, and the amount paid in warrants, orders or receipts, each in a separate column, and the total amount for which the receipt was given, in another column, and the treasurer shall keep his account of moneys received for and on account of taxes, separate and distinct from moneys received on any other account, and shall also keep his account of moneys received for and on account of taxes

Treasurer to keep a cash book

levied and assessed for any one year, separate and distinct from those levied and assessed for any other year, and all entries in said cash book of moneys received for taxes shall be in the numerical order of the receipts issued therefor.

Money, &c. received for licenses, &c.—how receipted for.

SEC. 47. Whenever the treasurer receives money, warrants or orders, on account of licenses, fines, or any other account except taxes, he shall make out duplicate receipts for the same and deliver one to the person making such payment, and the other to the county clerk, as provided in the case of tax receipts, and shall forthwith enter the same in his cash book as in case of money received for taxes, but in a separate place and with a separate and distinct series of numbers of receipts issued therefor.

Form of treasurer's cash book.

SEC. 48. The cash book above provided for shall be as nearly as practicable in the following form, to wit:

County clerk to keep a duplicate of the treasurer's cash book.

SEC. 49. The county clerk is required to keep a duplicate of the treasurer's cash book, and to enter therein all duplicate receipts by him received from the treasurer in the same manner and form as the treasurer is required to enter the same.

Errors in tax list or assessment roll to be corrected.

SEC. 50. If on the assessment roll or tax list there be any error in the name of the person assessed or taxed, the name may be changed, and the tax collected from the person intended, if he be taxable and can be identified by the assessor or treasurer; and when the treasurer, after the tax list is committed to him, shall ascertain that any land or other property is omitted, he shall report the fact to the county clerk, who upon being satisfied thereof, will enter the same upon his assessment roll, and assess the value, and the treasurer will enter it upon the tax list, and collect the tax as in other cases.

No demand of taxes necessary.

SEC. 51. No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation under this law, to attend at the treasurer's office at the county seat, and pay his taxes, and if any person neglect so to attend and pay his taxes, until after the first day of January next succeeding the levying of the taxes, the treasurer is directed and required to collect the same by distress and sale; *Provided*, that in any case, any person having only personal property assessed and upon which the same are unpaid should, in the opinion of the treasurer, be about to move out of the county, it shall be the duty of the treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands.

When taxes become delinquent

SEC. 52. On the first day of January of the year after which taxes shall have been assessed, all unpaid taxes shall become delinquent, and shall draw interest at the rate of ten per cent. per annum from the date of such delinquency.

Penalty.

SEC. 53. On all taxes which remain unpaid at the time the same becomes delinquent, there shall be added as a penalty, ten per cent. on the amount so remaining unpaid, which shall be added to the amount assessed and collected by the county treasurer.

Taxes a perpetual lien on real property.

SEC. 54. Taxes upon real property are hereby made a perpetual lien thereupon, against all persons and bodies corporate, except the United States and this Territory.

Goods distrained for taxes; how kept and sold.

SEC. 55. When the treasurer distrains goods, he may keep them at the expense of the owner, and he shall give notice of the time of their sale, within five days after the day of the taking, in the manner that constables are required to give notice of the time of the sale of personal property in execution; and the time of the sale shall not be more than ten days from the day of the taking; but he may adjourn the sale from time to time for a period not exceeding three days, and shall adjourn once at least when there

are no bidders; and in case of an adjournment he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges for keeping, and fees for sale, shall be returned to the owner, and the treasurer shall, on demand, render an account in writing, of the sale and charges.

SEC. 56. If the treasurer be resisted or impeded in the execution of his office, he may require any suitable person or persons, to aid him therein, and if any such person refuse to aid, he shall forfeit a sum not exceeding ten dollars, to be recovered by civil action, in the name and for the use of the county; and the person or persons resisting shall be liable as in the case of resisting the sheriff, in the execution of civil process.

If treasurer is resisted, he may call for aid—penalty for refusal.

SEC. 57. The treasurer shall continue to receive payment of all taxes after the first day of January upon the above terms until collected by distress or sale.

Taxes may be paid after 1st January.

SEC. 58. Whenever in the collection of any district, town, city, or local tax which may have been levied according to law, and the collector is not able to make the tax by distress and sale of personal property, and real estate is to be sold for the same, it shall be the duty of the collector of the tax, to send such delinquent list to the county treasurer on or before the fifteenth day of July of each year, and the county treasurer shall receive the delinquent list and advertise the same at the same time he advertises the sale of real estate for delinquent taxes as hereinafter provided, by adding the amount of such delinquent district, town, city or local tax to the amount of delinquent territorial, county and other taxes, and shall sell such lands for the purpose of paying all such delinquent taxes as hereinafter directed, and shall credit the proper district, town, city or locality for the amount of taxes so collected, which shall be subject to the order of the proper collecting officer.

Real estate may be sold for delinquent city or territorial tax, whenever, &c.

SEC. 59. The treasurer shall give notice of the sale of real property by publication thereof, once a week for three consecutive weeks, commencing the first week in August preceding the sale, in a newspaper in his county, if there be one, and if there be no paper published in his county, shall give notice by a written or printed notice posted on the door of the court-house or building in which the courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale; such notice shall contain a notification that all lands, on which the taxes of the preceding year (naming it) remain unpaid, will be sold, and the time and place of the sale, and said notice must contain a list of the lands to be sold, and the amount of taxes due. The treasurer shall add to each description of land so advertised the sum of ten cents

Notice of sale of property for delinquent taxes.

Fees of printers
for advertising
the same.

for each description, other than town lot, and for each town lot the sum of five cents to defray the expenses of advertising, which amount shall be paid by the county treasurer at the expiration of the sale, upon the affidavit of the publisher.

Sale to take place
1st Monday in
September.

SEC. 60. That on the first Monday of September in each year, between the hours of nine o'clock, A. M., and four o'clock, P. M., the treasurer is directed to offer at public sale, at the court-house, or place of holding courts in his county, or at the treasurer's office where by law the taxes are made payable, all lands on which the taxes levied for the previous year still remain unpaid, and he may adjourn the sale from day to day until all the lands and lots, or blocks, have been offered.

Regulations as
to sale.

SEC. 61. The person who offers to pay the amount due on any parcel of land for the smallest portion of the same, is to be considered the highest bidder, and when such a portion constitutes a half, or more, of the parcel, it is to be taken from the east side thereof, dividing it by a line running north and south, except that town lots are to be divided, in such case, lengthwise by a parallel with the proper lines of the lots. If the portion taken be less than one-half of the parcel, it is to be taken from the south-east corner, in a square form, as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: The homestead is liable to be sold for no tax save that which is due upon itself exclusively, and the above directions concerning the division of a tract of land, shall be modified so as to meet this requirement; and to that end, the quantity of land bid may be obtained by drawing the division line in any direction or form, so as to avoid the homestead, and when the homestead constitutes a part of the tract or parcel sold, and is not yet ascertained, the court may in the action hereafter authorized, at the suggestion of either party, cause proceedings to be had similar to that required in relation to mechanics' liens, for the ascertainment of the homestead; and in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and to set it apart from the homestead.

In case bidder
fails to pay the
tax, treasurer
may again sell,
&c.

SEC. 62. Should any person so bidding, fail to pay the amount due, the treasurer may again offer the land for sale if the sale has not closed, and if it has closed, he may again advertise it specially and by description, by one written or printed notice, posted for two weeks on the door of the court house or place where courts are usually held, after which it may be sold at public sale; or the treasurer may recover the amount bid by civil action, brought in the name of the county in which the sale was held.

SEC. 63. On or before the first Monday of October following the sale of real property, the treasurer is required to file in the office of the county clerk of his county, a return of his sale of lands (retaining a copy in his office) showing the lands sold, the names of the purchasers and the sums paid by them, and also a copy of the notice of the sale, with a certificate of the advertisement, verified by an affidavit, and such certificate shall be evidence of the regularity of the proceedings.

Treasurer to file
return of sale
with county
clerk by 1st
Monday in Oct.

SEC. 64. The descriptions of real estate in such returns shall be entered in the same numerical order as required in the tax list, and such return shall be as nearly as may be in the following form, to-wit:

Form of treas-
urer's return.

6

SEC. 65. The purchaser of any tract of land sold by the county treasurer for taxes, will be entitled to a certificate in writing, describing the land so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and said assignment must be acknowledged before some officer having power to take acknowledgment of deeds, such certificate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. The purchaser acquires the lien of the tax on the land, and if he subsequently pay any taxes levied on the same, whether levied for any year or years previous or subsequent to such sale, he shall have the same lien for them, and may add them to the amount paid by him in the purchase, and the treasurer shall make out a tax receipt and duplicate for the taxes on the real estate mentioned in such certificate, the same as in other cases, and shall write thereon "Sold for tax at public sale." Such certificate shall be substantially in the following form, to-wit:

Purchaser entitled to a certificate—its validity and form.

County Treasurer's Certificate of Tax Sale.

The Territory of Nebraska, }
County of ——— } ss.

I ———, Treasurer of the county of ———, in the Territory of Nebraska, do hereby certify that the following described real estate in said county and territory, to-wit: (describing the same) was on the ——— day of ———, 18——, duly sold by me in the manner provided by law for the delinquent taxes of the year 18—— thereon, amounting to ——— dollars, including interest and penalty thereon, and the costs allowed by law, to ———, for the said sum of ——— dollars, he being the highest and best bidder for the same. And I further certify, that unless redemption is made of said real estate, in the manner provided by law, the said ——— heirs or assigns will be entitled to a deed therefor on and after the ——— day of ——— A. D. 18——, on surrender of this certificate.

In witness whereof, I have hereunto set my hand this ——— day of ———, A. D. 18——.

Treasurer.

SEC. 66. The treasurer is authorized to demand fifty cents for each deed or certificate made by him on such sale, together with the necessary amount of United States Revenue Stamps and the fee of the notary public, or other officer acknowledging the deed, but any number of parcels of land bought by any one person, may be included in one deed or certificate, as may be desired by the pur-

Treasurer to receive 50 cents for certificate.

chaser, and whenever the treasurer makes a deed to any lands sold for taxes, he shall enter an account thereof in the sale book opposite the description of the land conveyed.

Property not
sold at public
sale may be sold
at private sale—
form of certifi-
cate in such case

SEC. 67. After the tax sale shall have closed and after the treasurer has made his return thereof to the county clerk, as provided in section sixty-three of this act, if any real estate remain unsold for want of bidders therefor, the county treasurer is authorized and required to sell the same at private sale, at his office, to any person who will pay the amount of the taxes, penalty, and costs thereon for the same, and to deliver to said purchaser a certificate as provided in section sixty-five of this act, and to make out duplicate receipts for the taxes on such real estate and deliver one to the purchaser and the other to the county clerk, as hereinbefore provided, (with the additional statement inserted in the certificate that such lands have been offered at public sale for taxes, but not sold for want of bidders) on which he is required to write, sold for taxes at private sale; and the treasurer is further authorized and required to sell as aforesaid all real estate in his county on which taxes remain unpaid and delinquent for any previous year or years.

Property sold
may be redeem-
ed in two years.

SEC. 68. The owner or occupant of any land sold for taxes, or any other person, may redeem the same at any time within two years after the day of such sale, by paying the county treasurer, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, and interest thereon at the rate of forty per cent. per annum from the date of purchase, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to said sale, and interest thereon at the same rate from the date of such payment, and the treasurer is to enter a memorandum of the redemption in the list of sales, and give a receipt thereof to the person redeeming the same, and file a duplicate of the same with the county clerk as in other cases, and hold the money paid to the order of the purchaser, his agent or attorney. *Provided,* that infants, idiots and insane persons may redeem any lands belonging to them, sold for taxes, within two years after the expiration of such disability.

Proviso as to id-
iots and insane
persons.

Persons claim-
ing interest may
redeem, &c.

SEC. 69. Any person claiming an undivided part of any land sold for taxes, may redeem the same on paying such proportion of the purchase money, interest, principal and subsequent taxes as he shall claim of the land sold.

Duties of treasu-
rers in case of
partial redemp-
tions.

SEC. 70. In every case of a partial redemption, pursuant to the last section, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the county treasurer shall convey accordingly.

SEC. 71. If no person shall redeem such lands within two years, at any time after the expiration thereof and on production of the certificate of purchase, the treasurer of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns in the name of the Territory, a conveyance of the real estate so sold, subject however to all the claims which the Territory may have thereon for taxes or other liens or incumbrances.

If not redeem'd in two years the treasurer to execute a conveyance to purchaser

SEC. 72. Such conveyances shall be executed by the county treasurer under his hand, and the execution thereof shall be attested by the county clerk, with the county seal, and such deed shall be *prima facie* evidence of the truth of all the facts therein recited, and no more, and such deed shall be as far as practicable in the following form, to wit:

Execution of conveyance to be attested by clerk

Whereas, A B did on the——day of——, A. D. 18——, produce to the undersigned, C D, treasurer of the county of——, in the Territory of Nebraska, a certificate of purchase in writing, bearing date the——day of——, 18——, signed by E F, who at the last mentioned date was treasurer of said county, from which it appears that—— did on the——day of——, 18——, purchase at public auction at the door of the court house in said county, the tract, parcel or lot of land lastly in this indenture described, and which lot was sold to——for the sum of——, being the amount due on the following tract or lot of land returned delinquent——, for the non-payment of taxes, costs and charges for the year 18——, to wit: (here insert the land offered for sale). And it appearing that the said A B is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the land therein described, having now expired, and the same not having been redeemed as provided by law, and the said A B having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, cost and charges as above specified, and it appearing that said lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book or duplicate for the year 18——, and that said lands had been legally advertised for sale for taxes, and were sold on the——day of——18——. Now therefore, this indenture, made this——day of——, A. D. 18—— between the Territory of Nebraska by C D, the treasurer of said county of the first part, and the said A B, of the second part, witnesseth, that the said party of the first part, for and in consideration of the premises and the sum of one dollar in hand paid, hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey

Form of treasurer's deed.

unto the said party of the second part—heirs and assigns forever, the tract or parcel of land mentioned in said certificate and described as follows, to wit:———, to have and to hold said mentioned tract or parcel of land, with the appurtenances thereunto belonging, to the said party of the second part, —heirs and assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to sell the same.

In testimony whereof the said C D, treasurer of said county of———, has hereunto set his hand and seal on the day and year aforesaid.

(Attest.)

[Seal.]

Acknowledgm't.

Which deed shall be acknowledged by said treasurer before some one authorized by law to take acknowledgments of deeds.

Sale not invalid if listed erroneously.

SEC. 73. The sale of lands for taxes shall not be invalid on account of such lands having been listed or charged on the duplicate in any other name than that of the rightful owner.

Certificates to be cancelled when conveyances are made—proceedings when certificates are lost.

SEC. 74. When conveyances are delivered for lands sold for taxes the certificate therefor shall be cancelled and filed away by the county clerk, and in case of the loss of any certificate, on being fully satisfied thereof by due proof, and give bond to the Territory of Nebraska in the sum equal to the value of the property conveyed as in cases of lost notes or other commercial paper, the county clerk may execute and deliver the proper conveyance and file such proof and bond with the county clerk.

When lands are erroneously sold county to hold purchaser harmless.

SEC. 75. When by the mistake or wrongful act of the treasurer, land has been sold on which no tax was due at the time, the county is to hold the purchaser harmless by paying him the amount of principal and interest to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties shall be liable for the amount to the county on his bond, or the purchaser may recover the same directly from the treasurer.

License to peddlers—amount.

SEC. 76. A tax for territorial purposes shall be levied upon each pedlar of watches, clocks, jewelry, or patent medicines, and all other wares and merchandise not manufactured within the limits of this territory, for a license to peddle throughout the territory for one year, the sum of thirty dollars.

From whom obtained.

SEC. 77. Such license may be obtained from the county clerk of any county, upon paying the proper tax to the treasurer thereof, and taking his receipt therefor.

Penalty for peddling without license.

SEC. 78. Any person so peddling without a license is guilty of a misdemeanor, and the person actually peddling is liable whether he be the owner or not, and upon conviction thereof, shall forfeit and pay the sum of fifty dollars to the county treasurer where such conviction shall be had,

to be recovered by civil action in the name of the county prosecuting for the same. All fines and penalties recovered under this section shall be applied to the common school fund of the county prosecuting for the same, and if any peddler refusing to exhibit his license to any person requiring a view of the same, he shall be presumed to have none, and if he produce a license upon trial, such peddler shall pay all costs of prosecution.

SEC. 79. The treasurers of the several counties shall pay into the territorial treasury all funds in their hands belonging thereto: the treasurers of Richardson, Nemaha, Otoe, Cass, Sarpy, Douglas, and Washington counties twice a year, to-wit: On or before the third Monday of June, and on or before the first Monday in November, the treasurers of the other counties on or before the first Monday of November in each year; and the funds so paid in shall be the identical territorial warrants, if any, received by the treasurer for payment of the taxes, or in coin or in treasury notes of the United States, and the county treasurer shall be entitled to receive ten cents a mile for travel each way by the nearest route, in making his returns to the territorial treasurer, which he may receive either by a credit on his account, or on an order of the auditor from the territorial treasury.

County treasurer to pay to Ter. treasurer, annually—certain counties twice a year.

SEC. 80. If any county treasurer shall willfully and negligently fail to settle with the territorial treasurer at the time and in the manner above prescribed by law, he shall forfeit to the use of the Territory the sum of five hundred dollars, which sum may be recovered of him, or his sureties, on suit brought by the territorial treasurer in any court of this Territory having jurisdiction; or in case of failure of the territorial treasurer to bring such suit, then any citizen of the Territory may bring the same.

Penalty in case of failure to settle.

SEC. 81. The county treasurer shall settle with the county commissioners on or before the first Monday of May, and on the first Monday of October; provided, however, that the county commissioners may require the county treasurer to settle with them at any time; the treasurer is to be charged with the amount of all tax lists placed in his hands for collection, and credited with the amounts collected thereon and the delinquent lists, and he shall leave his vouchers with the commissioners, to be retained by them for evidence of his settlement. If the treasurer's accounts are correct, the commissioners shall certify the same; if not, he shall be liable on his bond.

County treasurer to settle with commissioners.

SEC. 82. A list of lands becoming taxable for the first time in each county of the territory, shall be procured by the territorial auditor from the proper land officers, at the best prices for the Territory, and a list of the lands becoming so taxable in each of the several counties, shall be for-

Ter. Auditor to procure list of lands from land officers.

warded by the auditor to the county clerk of each county on or before the fifteenth day of January of each year.

County treasurer to keep a 'Warrant Book' --Form.

SEC. 83. Each county treasurer is required to keep a book called the "warrant book," in which he shall enter every territorial, county, road, or other warrant or order by him paid, or received in payment of taxes, specifying the date at which the same was received and canceled, from whom received, the payee, or person in whose favor it was drawn, its number and date, the amount for which it was originally drawn, the total amount of indorsements or payments made thereon, the principal sum for which it was received, the interest allowed, and the total amount for which it was received, and the treasurer shall keep his account of warrants and orders by him received for and on account of taxes, separate and distinct from such as are by him paid in cash, and in another and separate place he shall enter an account of all indorsements made on warrants or orders in part payment thereof. Such warrant book shall be in the following form, to wit:

[illegible]

Issuance of false
certificate by
treasurer—pen-
alty.

SEC. 84. If any county treasurer in this Territory, or his deputy, or any other person, shall knowingly or willfully make, issue and deliver, any tax receipt, or duplicate tax receipt, and therein designate any part or parts of the amount thereof as being paid in warrants or orders when the same was or were paid in cash, such treasurer, or deputy treasurer, or other person, shall be deemed guilty of a high crime and misdemeanor, for which he may be indicted by a grand jury, and on conviction thereof before any court of competent jurisdiction in this Territory, he shall be sentenced to imprisonment in the penitentiary for a term of not less than one year, nor more than five years in the discretion of the court.

Same.

SEC. 85. If any county treasurer in this Territory, or his deputy, or any other person; shall knowingly or willfully make, issue and deliver, any tax receipt, or duplicate tax receipt, required by section forty-one of this act to be issued, by fraudulently making the tax receipt and its duplicate, or the paper purporting to be its duplicate, different from each other, with intent to defraud the Territory of Nebraska, or any county in said Territory, or any person or persons whomsoever, such treasurer or deputy treasurer or other person, shall be deemed guilty of a high crime and misdemeanor for which he may be indicted by a grand jury, and on conviction thereof before any court of competent jurisdiction in this Territory, he shall be sentenced to imprisonment in the penitentiary for a term of not less than one year, nor more than five years, in the discretion of the court.

Derelection of
officers or per-
sons—penalty.

SEC. 86. In the case of dereliction of duty on the part of any officer or person required by law to perform any duty under the provisions of this act in any county in this Territory, such person shall thereby forfeit all pay and allowance that would otherwise be due him, and the county commissioners in any such county, on receiving satisfactory evidence of such dereliction or failure to perform as required by law any duty enjoined by this act, shall refuse to pay such person or persons any sum whatever for such services.

Auditor of Ter-
ritory to procure
blank books
and forms.

SEC. 87. The Auditor of the Territory is hereby required to procure the necessary blank books and blanks according to the forms prescribed by this act, at the best prices for the Territory, in quantity sufficient to supply all the counties in the Territory, and furnish the same to the several counties at the expense of the Territory, upon the requisition of the county commissioners, and the sum of _____dollars is hereby appropriated for that purpose out of any moneys in the treasury not otherwise appropriated.

Compensation of
certain officers.

SEC. 88. That in executing the provisions of this act, the following compensation shall be allowed and paid out

of the territorial or county treasury, as the case may be. The county commissioners or board of equalization shall each be allowed for the time they are necessarily employed in the duties of their office, the sum of two dollars per day and five cents per mile travelled, to be paid out of the general county fund. The county clerk, for each day he may be necessarily employed in preparing the abstracts for the assessor's roll for the territorial auditor, shall be paid the sum of two dollars, and for each day he may be necessarily employed in preparing the tax list and duplicate as required by this act, the sum of two dollars, which sum shall be paid from the county treasury on the warrant of the county commissioners. Each county treasurer shall receive for his services the following fees: on all moneys collected by him for each fiscal year, under three thousand dollars, ten per cent., and for all sums over three thousand dollars and under five thousand dollars, four per cent., and on all sums over five thousand dollars, two per cent. On all sums collected per centage shall be allowed but once, and in computing the amount collected, for the purpose of charging per centage, all sums, from whatever fund derived, shall be included together, except the school fund. For going to the seat of government to settle with the territorial treasurer, and returning therefrom, a traveling fee of ten cents per mile, to be paid out of the territorial treasury; for advertising and selling lands for delinquent tax an additional fee of five per cent., to be collected only in case such lands are actually sold, and then in cash of the person buying the same; but for all other cases and services the treasurer shall be paid in the same pro rata from the respective funds collected by him, whether the same be in money, territorial or county warrants, and on school moneys by him collected, he shall receive a commission of but one per cent., and in all cases where persons outside of the Territory apply to the treasurer by letter to pay taxes, the treasurer is authorized to charge a fee of one dollar for each tax receipt by him sent to such person.

SEC. 89. Sections 19, 20, 21, 22 and 23, of an act entitled "An act to define the powers and duties of county commissioners and county clerks, approved January 11, 1861, and the act amendatory thereof, approved December 20, 1861" are hereby repealed, and no taxes heretofore assessed, levied or collected, and no interest whatever of any person or party in real estate shall be prejudiced or impaired or in any wise affected by the passage of this act.

Sections 19 to 23
of a certain act
repealed.

SEC. 90. An act entitled "An act to provide for the valuation and assessment of real and personal property, and for the levying and collection of taxes in the Territory of Nebraska, approved January 11, 1861," and all acts and parts of acts inconsistent with this act are hereby

Act of Jan. 11,
1861, repealed.

Saving clause. repealed, but nothing in this act shall be so construed as to invalidate the assessment or levy of any tax heretofore made, but the same shall be collected, and all proceedings in the courts or elsewhere to perfect the same or the tax title to be acquired under any sale heretofore made or hereafter to be made, shall be conducted to final conclusion and determination in the same manner as though this act had never been passed; and provided that no criminal proceedings already commenced or which may be hereafter commenced against any person or persons for any violation of any of the provisions of "An act to provide for the valuation and assessment of the real and personal property, and for the levying and collection of taxes in the Territory of Nebraska, approved January 11, 1861," shall abate or be in anywise affected by the passage of this act, but the same shall be proceeded in to conviction and punishment, the same as if this act had not been passed.

SEC. 91. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To revise and consolidate the laws of a general nature, passed at the second session of the Legislative Assembly of this Territory.

CHAPTER I.

THE GENERAL ASSEMBLY.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, as follows, to wit:* At two o'clock in the afternoon of the day of the meeting of the General Assembly, some person claiming to be elected a member, shall call the House to which he belongs, to order, and the persons present claiming seats in that House as members, shall elect a clerk for the time being. May elect clerk.

SEC. 2. The clerks of each House shall file the certificates presented by members, each for his own House, and make a roll of the members who thus appear to be elected, and the persons thus appearing to be elected members, shall proceed to elect such other officers as may be required for the time being. Election of other officers.

SEC. 3. When the Houses are temporarily organized, they shall elect a committee of five on the part of the House, and three on the part of the Council, by ballot, which committee shall examine and report upon the credentials of those claiming to be elected members of their respective Houses, and when such report is made, those reported as elected, shall proceed to the permanent organization of their respective Houses, and each House shall be the sole judge of the election returns and qualifications of its own members. Joint committee on credentials.

SEC. 4. Any member may administer oaths in the House of which he is a member, and while acting on a committee, may administer oaths, on the business of such committee. Oaths.

SEC. 5. No member of the General Assembly shall be questioned in any other place, for any speech or words spoken in debate, in either House.

SEC. 6. Each House of the General Assembly has power and authority to punish as a contempt, by fine and imprisonment, or either of them, the offense—of knowingly arresting a member in violation of his privilege; by assault— Punishment for contempt.

ing or threatening to assault a member, or threatening to do him any harm, in person or property, for anything said or done in either House, as a member thereof; of attempting by menace or other corrupt means, to control, or influence a member in giving his vote, or to prevent his giving it; of disorderly or contemptuous conduct, tending to disturb its proceedings; of refusing to attend, or to be sworn, or to be examined as a witness before either House or a committee when duly summoned; of assaulting, or preventing any person going to either House, or its committee, by order thereof, knowing the same; of rescuing or attempting to rescue any person arrested by order of either House, knowing such arrest: and of knowingly injuring any officer of either House in the discharge of his duties as such.

Imprisonment.

SEC. 7. Imprisonment for contempt of either House, shall not be for more than six hours, and shall be in the jail of the county in which the General Assembly may then be sitting, or if there be no jail, then in one of the nearest county jails.

Fine not to exceed \$50.

SEC. 8. Should a fine be imposed for any offense in the second preceding section, it shall not exceed fifty dollars.

Fine and imprisonment how effected.

SEC. 9. Fines and imprisonment shall be only by virtue of an order of the proper House, entered on its journals, stating the grounds therefor. Imprisonment shall be effected by a warrant under the hand of the presiding officer, for the time being, of the house ordering it, countersigned by the clerk of the House, running in the name of the Territory, and directed to the sheriff of the proper county; and under such warrant, the officer of the House, sheriff, and jailor will be authorized to arrest and detain the person.

Fines, how collected.

SEC. 10. Fines shall be collected by virtue of a similar warrant, directed to any proper officer of the county in which the offender has property, and executed in the same manner as executions for fines issued by courts of justice, and the proceeds shall be paid into the territorial treasury.

Punishment no bar.

SEC. 11. Punishment for contempt, as in this chapter provided, is no bar to any other proceeding, civil or criminal, for the same offense.

CHAPTER II.

CORPORATIONS.

SEC. 1. Any number of persons may be associated and incorporated for the transaction of any lawful business, including the construction of canals, railways, bridges, and other works of internal improvement. Association.

SEC. 2. Every corporation as such, has power Corporate powers.

1. To have succession by its corporate name;
2. To sue and be sued, to complain, and defend in courts of law and equity;
3. To make and use a common seal, and alter the same at pleasure;
4. To hold personal estates, and all real estate as may be necessary for the legitimate business of the corporation;
5. To render the interest of the stockholders transferable;
6. To appoint such subordinate officers and agents, as the business of the corporation shall require, and to allow them a suitable compensation therefor;
7. To make by-laws, not inconsistent with any existing law, for the management of its affairs.

SEC. 3. The powers enumerated in the preceding section, shall vest in every corporation in this Territory, whether the same be formed without, or by Legislative enactment, although they may not be specified in its charter, or as articles of association. Powers, in whom vested.

SEC. 4. Every corporation, previous to the commencement of any business, except its own organization, when the same is not formed by legislative enactment, must adopt articles of incorporation, and have them recorded in the office of the Register of Deeds, of the county or counties in which the business is to be transacted, in a book kept for that purpose. Articles of incorporation to be recorded.

SEC. 5. Corporations for the construction of works of internal improvement, must also file in the office of the Secretary of the Territory, a copy of their articles of association, and the same shall be recorded in a book kept for that purpose. Copy to be filed with Secretary of Territory.

SEC. 6. The articles of incorporation must fix the highest amount of indebtedness, or liability, to which the corporation shall, at any one time, be subject, which must in no case, except in that of the risk of Insurance Companies, exceed two-thirds of its capital stock. Indebtedness.

SEC. 7. If any corporation, hereafter created by the Legislature, shall not organize within one year after its incorporation, its corporate powers shall cease. Time of organization.

Notice to be published.

SEC. 8. Notice must be published in some newspaper, near the principal place of business, for four weeks.

Notice to contain.

SEC. 9. Such notice must contain

- 1st. The name of the corporation;
- 2d. The principal place of transacting its business;
- 3d. The general nature of the business to be transacted;
- 4th. The amount of capital stock authorized, and the time and conditions on which it is to be paid in;
- 5th. The time of commencement, and termination of the corporation;
6. The highest amount of indebtedness or liability to which the corporation is at any time to subject itself, and
- 7th. By what officers the affairs of the corporation are to be conducted.

Time of commencing business.

SEC. 10. Any corporation formed without legislative enactment, may commence business as soon as its articles of incorporation are filed with the Registers of deeds of the counties, as required by this act, and shall be valid, if a copy of its articles be filed in the office of the Secretary of the Territory, and the notice required, be published within four months from the time of filing such articles in the Register's office.

Change.

SEC. 11. Every change, in any of the above matters shall be recorded, and published in the same manner as the original articles are required by law.

Dissolution.

SEC. 12. No corporation can be dissolved by the members thereof, except by consent of two-thirds of all its members; which consent must be entered on its records, unless a different rule has been adopted in its articles of incorporation.

Copy of by-laws to be posted.

SEC. 13. A copy of the By-laws of the corporation, with the names of all the officers appended thereto, must be posted in some conspicuous place, at the places of doing business, subject to public inspection.

Amount of debt.

SEC. 14. Every corporation hereafter created, shall give notice annually, in some newspaper, printed in the county, or counties, in which the business is transacted; and in case there is no newspaper printed therein, then in the nearest paper in the Territory, the amount of all the existing debts of the corporation, which notice shall be signed by the president, and a majority of the directors; and if any corporation shall fail to do so, all the stockholders of the corporation shall be jointly and severally liable for all the debts of the corporation, then existing, and for all that shall be contracted before such notice is given.

May convey land

SEC. 15. It shall be lawful for any corporation to convey lands by deed, sealed by the common seal of said corporation, and signed by the president or presiding officer

of the board of directors of the corporation; and such deed when acknowledged by such officer to be an act of the corporation or proved in the usual form prescribed for other conveyances for lands, shall be recorded in the register's office of the county in which the lands lie in like manner as other deeds.

SEC. 16. All corporations may sue for, and recover ^{May sue.} from their respective members in any court of competent jurisdiction all arrears or other debts due, or other demands, which now are, or hereafter may be owing to them, in like manner as they might sue for and recover the same from any indifferent person who might be a member; any law, usage, or custom, to the contrary notwithstanding

SEC. 17. If any corporation fail to comply substantially ^{Property liable for debts.} with the provisions of this charter, in relation to giving notice, and other requisitions of organization, the property of all the stockholders shall be liable for the corporate debts.

SEC. 18. If any deception be practiced, by any corporation upon the public or individuals, in relation to its means, or liabilities, all those engaged in such deception, shall be liable to a fine not exceeding five hundred dollars; and any person injured by such deception, may recover double the amount of damages he may have sustained by reason of the same, in any court having jurisdiction of the amount claimed. ^{Penalties.}

SEC. 19. A division of the funds of a corporation for ^{Dividends.} other purposes than those mentioned in the act granting the charter, and the payment of dividends which have insufficient funds to meet the liabilities of the corporation, shall be deemed a violation of the provisions of this chapter, and subject those engaged therein to the penalties herein prescribed.

SEC. 20. Any violation of the provisions of this chapter, shall cause a forfeiture of all the privileges conferred by the same, and the court may proceed to close the affairs of the corporation, by an information for that purpose. ^{Forfeiture.}

SEC. 21. Corporations whose charters expire by their own limitation, or by the voluntary act of the stockholders, may continue to act for [the] purpose of closing their business, but for no other purpose. ^{Expiration of charter.}

SEC. 22. No body of men acting as a corporation under the provisions of this chapter, shall be permitted to set up the want of legal organization as a defence to any action brought against them, as a corporation; nor shall any person sued on a contract made with such corporation, or for an injury to the property of such corporation, be permitted to set up the want of legal organization in defence of such action. ^{Defence to action.}

CHAPTER III.

INCORPORATION OF TOWNS.

Petition.

SEC. 1. [If] a majority of the taxable inhabitants of any town within this Territory, shall present a petition to the *commissioners of the same county* in which said town is situated, praying that they may be incorporated, and a police established for their local government, designating the name they wish to assume, and if such commissioners shall be satisfied that a majority of the taxable inhabitants of such town have signed the petition, they may declare the town incorporated, and thenceforth the inhabitants within such bounds shall be a body politic and corporate, by the name and style of the town of — (naming it,) and they and their successors shall be known by that name in law, and have perpetual succession, sue and be sued, defend and be defended, in all courts of law and equity, and may grant, purchase, hold, and receive property, both real and personal, within such town, and lease, sell, and dispose of the same for the benefit of the town, and may have a common seal, and may alter the same at pleasure.

Powers.

Corporate powers.

SEC. 2. The corporate powers of every town so incorporated, shall be vested in a board of trustees, to consist of five members, to be elected by the qualified voters residing within such town.

Trustees.

Eligibility.

SEC. 3. The said commissioners, when they declare a town incorporated, shall appoint five suitable persons, eligible according to this chapter, for trustees for such town, and they shall hold their offices until their successors are elected and qualified; and the election for trustees shall be held on the first Monday in May annually, and no person shall be eligible to the office of trustee who shall not have attained the age of twenty-one years, who shall not be an inhabitant of the town at the time of his election, and who shall not be a free, white male citizen of the United States, and they shall hold their office for one year, and until their successors are elected and qualified.

Duties and powers of Trustees.

SEC. 4. The board of trustees shall have power to pass by-laws and ordinances, to remove nuisances, to suppress bawdy, gambling, and all other disorderly houses, within the limits of such town, to license and regulate theatrical and other amusements within such town, to prohibit firing of firearms, and prevent furious riding and driving of horses, or other animals, within the town, to establish night-watches and patrols, to erect and repair bridges, to regulate the landing and stationing of steamboats, rafts, and other water crafts, to prevent the introduction and spreading of diseases, to open public squares and avenues,

drains and sewers, streets and alleys, to impose and appropriate fines and forfeitures for breaches of their ordinances, to levy and collect taxes, and to pass by-laws and ordinances for the regulation of the police of such town.

SEC. 5. The board of trustees shall have power to appoint a constable, collector, and assessor, and other officers, and remove them from office, and fix them a compensation for their services. Power to appoint officers.

SEC. 6. Every trustee shall, before he enters upon the duties of his office, take an oath before some judge or justice of the peace, that he will faithfully and impartially discharge the duties enjoined on him by law. Oath.

SEC. 7. Every board of trustees shall assemble within thirty days after their appointment or election, and one of their number shall be chosen chairman, and they shall also appoint some suitable person clerk. The board of trustees shall, by ordinance, fix the time and place of meeting. Chairman and clerk.

SEC. 8. The chairman may at any time, if necessary call a meeting of the board, by order to the clerk, who shall notify the remaining members of the board, and a majority of the trustees shall constitute a quorum to do business. A smaller number may adjourn from time to time, and may compel the attendance of absent members, by ordering a notice to be served upon them by the clerk, and if absent members fail to attend after being duly notified by the clerk, at the time and place appointed by those adjourning, they shall be deemed to have vacated their office, and upon proof of such notice and failure to the county commissioners, they shall fill such vacancy or vacancies, and those appointed to fill vacancies shall hold their offices till the next regular election, and until their successors are elected and qualified. Quorum. Failure to attend.

SEC. 9. The county commissioners shall appoint three suitable persons as judges of the election of trustees of any incorporated town, qualified to act as judges of other elections held under the laws of this Territory, and they shall appoint clerks, and both judges and clerks shall take the like oath as judges and clerks of other elections, and proceed in every respect as in such cases. Judges of election. Oath.

SEC. 10. If the county commissioners fail to appoint judges of such elections, the voters, when assembled, shall appoint judges, who shall appoint clerks, and proceed in all things as the judges appointed by the commissioners. When voters to appoint.

SEC. 11. The collector may collect all taxes levied by the board of trustees, in the same manner that collectors of the revenue of this Territory are authorized to collect the Territorial revenue. Collector.

SEC. 12. All fines penalties, and forfeitures accruing to any town, may be recovered by action of debt, in the name of the corporation, before any justice of the peace. Fines &c., how recorded.

Prosecution.

SEC. 13. Such action may be commenced and prosecuted by the attorney for the corporation, which the board of trustees shall have power to appoint, or by order of the board. Any inhabitant of such town may be a juror or witness, if otherwise competent and qualified.

By-laws to be published.

SEC. 14. The chairman of the board of trustees shall cause all the by-laws and ordinances of the board to be printed and published for the information of the inhabitants, and cause the same to be carried into effect.

Vacancies, how filled.

SEC. 15. Vacancies occasioned by death, resignation, or removal from the town, shall be filled by the county commissioners, and the chairman of the board is required to notify such commissioners of such vacancies.

Chairman pro tem.

SEC. 16. If the chairman of the board be absent at any meeting of the board, a chairman *pro tempore* may be appointed by the board, who shall in all things perform the duties of the regular chairman, and be subject to the like penalties for failing to perform such duties.

Voters.

SEC. 17. No person shall vote at the election of trustees of an incorporated town but free white male citizens of the United States, over twenty-one years of age, residing within the limits of the town incorporated, and who have been three months a resident of such town at the time of the election.

Elections.

SEC. 18. All elections for trustees shall be opened at ten o'clock in the forenoon, and be kept open until six o'clock in the evening; and the votes shall be given by ballot. After the close of the election, the judges shall make out an abstract of the votes cast, and return the same, together with one of the poll-books of the election, by one of the clerks, to the county clerk. Such abstract must be certified under the hands of the judges and attested by the clerk.

Canvassing returns.

SEC. 19. The county clerk shall take to his assistance, within ten days after the returns are made to him, two justices of the peace of the county, and examine such returns, and give to the persons having the highest number of votes certificates of election.

In case of a tie.

SEC. 20. In case of a tie, the county clerk shall order another election, stating the time, and order the clerk to give notice of such election; and the voters when assembled, shall appoint judges, and the judges shall appoint clerks, and proceed with the election in all respects as in other cases.

Term of office.

SEC. 21. If the regular election of trustees be not held, the board of trustees and other officers shall continue to perform the duties of their office, and the county clerk shall fix a time for an election and order the clerk of the board to give notice thereof.

SEC. 22. A majority of the taxable inhabitants of any

incorporated town may petition the county commissioners for a dissolution of their corporation, and the same shall be dissolved, if the commissioners be satisfied that a majority of such inhabitants have so petitioned. Petition for dissolution.

SEC. 23. The county commissioners, upon the dissolution of any corporation, shall appoint some suitable person trustee for such corporation. Trustee.

SEC. 24. The trustee shall forthwith take charge of all the property, papers, and effects of the corporation, and collect the debts due the corporation, and sell the property belonging to the same, under the direction of such commissioners. Duties of trustee.

SEC. 25. The trustee shall, before he enters upon the discharge of his duties, take an oath and give bond for the faithful performance of his duties; the bond shall be given to the county for the use of the inhabitants of the incorporated town. Bond and oath.

SEC. 26. When any town is indebted to any person, the board of trustees shall audit and settle the same, and draw a warrant upon the treasurer of the corporation, which shall be signed by the chairman and attested by the clerk. Debts, how paid.

SEC. 27. All warrants drawn on the treasurer shall be assignable. Warrants, assignable.

SEC. 28. No treasurer shall pay any warrant drawn on the treasury of any corporation to any other person than the person in whose favor the same is drawn, or his executor or administrator, or to the person to whom the same shall be assigned, or to his executor or administrator. To whom payable.

SEC. 29. If any treasurer violate the provisions of the preceding section, he shall be fined not less than fifty dollars, nor more than two hundred dollars, for every such offense. Penalty.

CHAPTER IV.

TOWN PLAT.

SEC. 1. The proprietor of any land may lay out a town, or addition to any town, and he shall cause an accurate map or plat to be made out, particularly describing the lots, streets, avenues, lanes, alleys, or other grounds belonging to such town or addition. The lots must be designated by their numbers, and the streets, alleys, avenues, lanes and other grounds, must be designated by names or numbers, and such plat shall be acknowledged before some court or officer authorized to take the acknowledgment of Map to be made and recorded.

deeds, or conveyances of real estate, and when such map or plat is made out and acknowledged the same shall be filed and reeorded in the office of the register of deeds of the county.

Equivalent to
Deed in fee sim-
ple.

SEC. 2. Such plat and acknowledgment being so record- ed, shall be equivalent to a deed in fee simple from the proprietor of all streets, alleys, avenues, squares, parks and commons, and such portion of the land as is therein set apart for public, county, village, town or city use, or is dedicated to charitable, religious, or educational pur- poses.

In case of divis-
ion of county.

SEC. 3. If any town, or addition to any town plat, be filed in the office of the register of any county, and the lines thereof be changed, by reason of the establishment of a new county, and such town or addition fall within the limits of such new county, the register of the old county shall forthwith transmit such map or plat to the register of the new county for record, and it shall be there recor- ded.

May be vacated.

SEC. 4. Any town plat or addition to any town plat, may be wholly or in part vacated, whenever the consent of all the property holders of such town or of an addition to any town can be obtained, and for that purpose a peti- tion may be presented to the county commissioners, ask- ing a vacation of the whole, or the part desired to be vacated, signed by all the property holders.

Non-residents.

SEC. 5. If any property holder in such town or village be a non-resident, or be unknown, a notice of the petition having been presented to such commissioners, shall be published for six weeks, the last insertion to be at least four weeks before the order of vacation is to be made — Any property holder can then appear at the time desig- nated in the notice, and make his objections to the vaca- tion, and in such case no vacation shall be made.

Vacation, how
ordered.

SEC. 6. If no objection be made, the order for vacation shall be made, and all the right and title to all streets, lanes, alleys, avenues, squares, commons or other grounds, dedicated to public use, shall revert to the original pro- prietor or proprietors, their heirs or assigns, and the commissioners shall issue a proclamation to that effect.

Damages, how
taken.

SEC. 7. In all cases of vacation, any person who has not had personal notice of the application therefor, may apply to the commissioners and demand an assessment of all damages, that he may have sustained by reason of such vacation, and an appeal shall lie from the judgment of the commissioners to the district court of the county.

Town plat to be
surveyed

SEC. 8. Every town plat when presented for record, shall have appended to it a regular survey thereof made by some competent surveyor, beginning at some perma- nent, visible, natural or artificial monument, with one or

more bearing post, stone tree, or object, and the surveyor shall certify that he has accurately surveyed such town, and that the streets, alleys, lanes, avenues, squares, parks, commons, and such pieces or lots set apart for public, village, town, city or county use, or dedicated to charitable, religious, or educational purposes, are well and accurately staked off and marked. And if any proprietor or proprietors of such town or addition, shall sell or offer to sell any lots or subdivisions of such town or parts thereof, without complying with the requirements of this chapter, he or they shall forfeit one hundred dollars for each lot, subdivision or part thereof, so sold or offered for sale, to be recovered by any person who will sue for the same.

SEC. 9. The provisions of this chapter shall apply to all town sites that have heretofore, or hereafter may be laid out on the public lands. Provisions general.

CHAPTER V.

PRECINCTS.

SEC. 1. Each board of county commissioners may divide the county into convenient precincts; and, as occasion may require, erect new ones, subdivide precincts already established, and alter precinct lines.

SEC. 2. When a precinct shall be divided, and any justice of the peace of the original precinct shall fall into a new precinct, he shall continue to act as justice, until his commission expires, as if the precinct had not been divided. New precinct.

SEC. 3. All resignations of justices of the peace shall be in writing, and addressed to the county clerk. Resignation.

SEC. 4. Each person elected constable shall, within twenty days after the election, give bond as required, in the sum of at least five hundred dollars, with one or more good securities, for the faithful performance of his duty, which bond shall be payable to the Territory of Nebraska, and may be sued upon by any person injured, which suit shall be in the name of the Territory of Nebraska, for the use and benefit of the person injured. Bond.

SEC. 5. Every person elected constable shall, before he enters upon the duties of his office, take the oath required by law, which shall be written upon the back of the bond, and be filed with the clerk of the county; which bond may be sued upon any time within two years, after the time for which he was elected. Oath.

SEC. 6. If any vacancy occur in the office of constable, the board of commissioners of the county shall fill the same by appointment, until the next election for county officers.

SEC. 7. If any precinct be divided, the constable in office at the time of the division, shall continue to be constable of the precinct in which he resides, and another constable shall be appointed for the other vacancy, as in case of vacancy.

Bond, how sued.

SEC. 8. Whenever summary proceedings are instituted against a constable, his sureties, jointly and severally, shall be liable for the same, and may, or may not be joined with him, and such recovery may be had against them, as is adjudged against the constable.

Liability for collections.

SEC. 9. It shall be the duty of every constable, elected or appointed after the taking effect of this chapter, to receive and receipt for every claim within the jurisdiction of a justice of the peace of his precinct, that may be tendered him for collection; and such constable and his securities on his official bond, shall be liable for the amount that may be collected by said constable on such claim, whether the same be collected by process or otherwise.

CHAPTER VI.

OFFICIAL BONDS AND OATHS.

Territorial officers, when to qualify.

SEC. 1. The Treasurer, Auditor, and Librarian of the Territory shall qualify within forty days after the returns are made and canvassed.

Bonds.

SEC. 2. The Territorial Treasurer shall give bonds in the sum of twenty-five thousand dollars to the Territory, conditioned for the faithful performance of his duties, which shall be approved by the Governor, if he deem it sufficient, and filed with the Secretary of the Territory.

SEC. 3. The Auditor shall give a like bond as the Treasurer, in the sum of five thousand dollars.

SEC. 4. The Librarian shall give a like bond as the Treasurer, in the sum of ten thousand dollars.

SEC. 5. The Judge of Probate shall give bonds in the sum of five thousand dollars.

SEC. 6. The Register shall give bonds in the sum of five thousand dollars.

SEC. 7. The County Treasurer shall give bonds in the sum of ten thousand dollars.

SEC. 8. The Sheriff shall give bonds in the sum of eight thousand dollars.

SEC. 9. The County Surveyor shall give bond in the sum of two thousand dollars.

SEC. 10. All of which bonds for the county officers shall be given to their respective counties, and to be approved by the County Commissioners and filed with their clerk. Bonds, how approved.

SEC. 11. All bonds for District and Territorial officers, shall be given to the Territory. Bonds to be given to Territory.

SEC. 12. All territorial, district, county and precinct, and specially appointed officers, shall take the following oath, viz: Oath.

I do solemnly swear, that I will support the Constitution of the United States, and faithfully and impartially perform the duties of my office according to law, and the best of my ability.

SEC. 13. All officers within this Territory who are required to give bonds, shall make them conditional for the faithful and impartial performance of their respective duties, according to law. Bonds conditional.

SEC. 14. Every officer of this Territory and every deputy before entering on his official duties shall take an oath to support the Constitution of the United States, and that they will faithfully discharge the duties of such office. Oath.

SEC. 15. Such oath, except in the cases specified in the following section, shall be endorsed on the commission or certificate and signed by him and certified to by the officer, before whom the same was taken, who shall also deliver to such person a certified copy of the same. Oath, how certified.

SEC. 16. Members of the General Assembly shall take such oath, before taking their seats, which shall be entered on the Journals. Members of Assembly, to take oath.

SEC. 17. The certified copy of such oath, shall be deposited by such persons, as follows—First, of all officers, whose oaths are endorsed on the commission, and whose duties are not limited to a particular county, in the office of the Auditor of the Territory. Oaths, how filed

Second—of county officers, and Justices of the Peace and Constables, in the clerk's office of the county.

SEC. 18. Every officer of whom an official bond is required by law, except county clerk, shall file such bond in the same office in which he is required to file the certified copy of his official oath; and the county clerk shall file his bond with the county register. Bond, how filed.

SEC. 19. Every officer with whom such certified copies and bonds shall be filed shall preserve the same, and on demand give certified copies thereof, or of the record attested with his official seal, and for the same he shall re- Officer to give certified copies.

ceive the same fees allowed by law for certified copies in other cases.

Bonds, how approved. SEC. 20. The bonds of all county and precinct officers shall be approved by the county commissioners.

Same. SEC. 21. The approval of every official bond, shall be written thereon by the officer who approved thereof; and no bond shall be filed until lawfully approved.

Bond payable to Territory. SEC. 22. All official bonds shall be payable to the Territory of Nebraska, and every such bond shall be obligatory to such Territory upon the principal and sureties for the faithful discharge of all duties required of such officer for the use of any person injured by any breach of the condition thereof.

Bond, when void. SEC. 23. No official bond shall be void on the first recovery, but suits may be instituted thereon, from time to time, until the penalty thereof is exhausted.

Same. SEC. 24. No official bond shall be void because of defects in form or substance or in the approval and filing thereof; but upon the suggestion of such defects, such bond shall be as obligatory as if properly executed, filed and approved.

Bond, how executed. SEC. 25. All official bonds required by law, shall be executed by the principal, and one or more sureties.

Copy of bond. SEC. 26. A copy of any official bond, legally certified, shall be received as evidence, and suit may be maintained thereon as on the original bond.

CHAPTER VII.

MARKS AND BRANDS.

Marks and brands to be recorded. SEC. 1. Every person having cattle, hogs, and sheep, shall have a mark or brand, different from the mark or brand of his neighbors, and he shall deliver to the register of deeds a description of his mark or brand, and such register shall record the same in a well-bound book kept by him for that purpose.

Same. SEC. 2. No person shall have or adopt a mark or brand previously recorded to another person of the same county, neither shall the register record the same mark or brand to more than one person.

Same. SEC. 3. No person shall use more than one mark or brand for his stock, nor use any other than the one recorded.

Mark or brand to be decided by record. SEC. 4. Every person shall mark or brand all his hogs or sheep over six months old, and his cattle over twelve

months old, and if any dispute arise about the question of whose any mark or brand may be, the same shall be decided by the record of the register

SEC. 5. If any person shall willfully and knowingly have a mark or brand recorded, which is already recorded to another person in the same county, he shall be fined not less than twenty dollars, nor more than one hundred dollars.

SEC. 6. If any register shall record the same mark or brand to more than one person, he shall forfeit and pay, to the use of the county, a fine not exceeding one hundred dollars. Fine and penalty.

SEC. 7. Every person who shall willfully and with intent to defraud, mis-brand or mis-mark any stock not his own, he shall forfeit and pay for every such offence not less than twenty dollars, nor exceeding one hundred dollars. Same.

SEC. 8. If any person alter or deface the mark or brand of any other person, for every head of stock whose mark or brand shall be thus altered or defaced, he shall forfeit not exceeding one hundred dollars.

CHAPTER VIII.

DUTIES OF SHERIFFS AND OTHER OFFICERS.

SEC. 1. It is the duty of the sheriff and his deputies to serve or otherwise execute according to law and return writs, or other legal process issued by lawful authority and to him or them directed or committed and to perform such other duties as may be required of him by law. Duty of sheriff and deputies.

SEC. 2. His disobedience of the command of any such process is a contempt of the court from which it is issued, and may be punished by the same accordingly, and he is further liable to the action of any person injured thereby. Contempt, how punished.

SEC. 3. He shall have charge, and custody of the Jail and the prisoners in the same, and is required to receive those lawfully committed, and to keep them himself or by his deputy Jailor until discharged by law. Custody of jail.

SEC. 4. The sheriff and his deputies are conservators of the peace and to keep the same or to prevent crime, or to arrest any person liable thereto, or to execute process of law may call any person to his aid, and when necessary the sheriff may summon the power of the county Conservators of the peace.

SEC. 5. The sheriff shall attend upon the district court at its sessions in his county, and he is allowed the assist-

- Attend District and Probate Courts.** ance of two constables, and of such further number as the court may direct, and shall attend the sessions of the Judge of Probate of the county when required by him.
- Not to appear as attorney.** SEC. 6. No sheriff or his deputy or constable shall appear in any court as attorney or counsellor for any party, nor make any writing or process to commence or to be in any manner used in the same, and such writing or process made by any of them shall be rejected.
- Purchase of property at public sale, forbidden.** SEC. 7. No sheriff or his deputy or constable shall become the purchaser, either directly or indirectly of any property by him exposed to sale under any process of law or equity; and every such purchase is absolutely void.
- Vacancy.** SEC. 8. Sheriffs and their deputies may execute any process which may be in their hands at the expiration of their office; and in case of a vacancy occurring in the office of sheriff from any cause, his deputies shall be under the same obligation to execute legal process then in his or their hands, and he and they will remain liable under the provisions of law as in other cases.
- Books and papers.** SEC. 9. When a sheriff goes out of office he shall deliver to his successor all books and papers pertaining to the office and property attached or levied upon, (except as provided in the preceding section,) and all prisoners in jail, and take his receipt specifying the same, and such receipt shall be sufficient indemnity to the person taking it.

CHAPTER IX.

AUDITOR OF PUBLIC ACCOUNTS, TREASURER AND LIBRARIAN.

- Auditor's bond and oath.** SEC. 1. Before the auditor enters on his duties, he shall give bond to the Territory of Nebraska, in the sum required by law, for the faithful discharge of the duties of his office, to be approved by the Governor, and he shall take and subscribe the usual oath required by law, and deliver over to his successor in office all books, papers, records, vouchers, presses and furniture appertaining to such office, and his bond shall be filed in the office of the secretary of the Territory, and be by him recorded.
- Office and furniture.**
- Duties.**
- Report.** SEC. 2. The auditor shall be the general accountant of the Territory, and the keeper of all public accounts; books, vouchers, documents, and all other papers relating to the accounts and contracts of the Territory, and its revenue and fiscal affairs, not required by law to be kept in some other office, or by some other person.

SEC. 3. He shall report to the General Assembly at each regular session:

1st—A full statement of the revenue and the expenditure thereof for the preceding year: *Auditor's duties*

2nd—A complete statement of the public debt:

3d—A statement showing separately the amount of each appropriation of money made by law:

SEC. 4. The auditor shall:

1st—Audit all claims against the Territory, payable out of the treasury thereof, except such as are required to be adjusted and settled by law, by some other person;

2nd—Draw all warrants for money payable out of the Territorial treasury;

3d—Audit and settle the accounts of all persons collecting the revenue of the Territory, or holding the money thereof;

4th—Keep the accounts between the Territory and the treasurer;

5th—He shall keep an account of all debts and credits between the Territory and the United States, and between the Territory and every State, sovereignty, community, officer or person with whom the Territory may have dealings;

6th—He shall direct prosecutions, by the attorney general, in the name of the Territory, against all delinquents in relation to revenue payable into the Territorial treasury, and against all persons that may become possessed of any money or property belonging to the Territory;

7th—He shall give information in writing, to either House of the Territorial Legislature, upon any subject in relation to the fiscal affairs of the Territory, suggesting any amendments of existing law, relative to the levying and collecting of the public revenue;

8th—He shall perform all other duties that may be required of him by law.

SEC. 5. When any bond of the auditor shall be broken, *Breach of bond.* the attorney general, or any person injured by such breach, may institute suit thereon in the name of the Territory, to his use, and any recovery thereon shall not render the bond valid; but other breaches thereof may be assigned and prosecuted, until the whole amount of the penalty shall be recovered.

SEC. 6. The auditor shall in person sign all warrants *Shall sign warrants.* for money on the treasurer, and they shall be countersigned by the treasurer before they are delivered to the person to whom they shall be payable.

SEC. 7. The auditor shall keep a fair record of all war-

Record of warrants.

warrants drawn by him on the treasury, together with their dates and amounts, and to whom payable, and out of what fund the same are payable, numbering them.

Shall issue duplicates—when lost.

SEC. 8. If any warrant drawn on the treasury be lost, mislaid or destroyed, it shall be lawful for the auditor to issue a duplicate warrant to the person so having lost the warrant, on his filing an affidavit of such loss or destruction in writing, sworn to before some judge or justice of the peace of the Territory, and the auditor and treasurer shall write over the entry of the warrant the words "lost," "mislaid," or "destroyed," as the case may be.

Duty of Treasurer.

SEC. 9. The treasurer shall keep an accurate account of the receipts and disbursements of the treasury, in books to be kept for that purpose, in which he shall specify the names of the persons from whom the money has been received, and on what account.

His receipts.

SEC. 10. He shall give to the person paying money into the treasury, duplicate receipts, stating the fund to which the money belongs, one of which may be kept by the person paying, and the other must be delivered to the auditor, in order to obtain the proper credit, and the amount shall be charged to the treasurer.

Warrants, how paid.

SEC. 11. The treasurer shall pay no money out of the treasury but upon the warrant of the auditor, and shall pay such warrants agreeable to their numbers.

Shall certify to Auditor.

SEC. 12. He shall, once in every three months, certify to the auditor the number, date, amount, and payee of each auditor's warrant, taken up by him.

Report to Governor.

SEC. 13. He shall, one month before the meeting of each General Assembly, report to the Governor the state of the treasury, up to that date, exhibiting the amount received, and paid out since his last report, and the balance remaining in the treasury.

His expenses.

SEC. 14. The expenses of the treasurer are to be audited like other claims on the Territory, and paid by the Territory.

Duty of Librarian.

SEC. 15. The librarian is to have charge and custody of all books, maps, charts, engravings, papers, and paintings belonging to the library, and directed to be deposited therein, and shall preserve the same, and also shall keep a file of each of the newspapers published in the Territory, at the expense of the Territory.

His bond.

SEC. 16. He shall, before he enters on the duties of his office, give bond with approved security in the sum of ten thousand dollars, payable to the Territory of Nebraska, for the faithful performance of his duty, and for rendering up to his successor all the property belonging to the Territory and in his office.

Bond of the Treasurer.

SEC. 17. The treasurer shall give bond required by law, with at least four securities to be approved by the

Governor, for the faithful performance of his duty, and shall take the oath required by law.

CHAPTER X.

OFFICERS.

SEC. 1. No person shall be elected a delegate to Congress of the United States from this Territory who shall not have resided therein at least twelve months before the time of voting. Delegate to Congress.

SEC. 2. No person shall be eligible to a seat in either branch of the General Assembly, unless he be a resident of the Territory, and shall have actually resided in the county or district in which he is a candidate at least six months before the day of election. General Assembly.

SEC. 3. And no person shall be elected or appointed to any county or precinct office unless he shall have resided therein at least two months before the day of election. County or precinct officers.

SEC. 4. Neither shall any person be entitled to hold any office of trust, or profit, in the Territory, unless he be a free white male citizen of the United States, and over the age of twenty-one years. Age.

CHAPTER XI.

REMOVAL FROM OFFICE.

SEC. 1. All county officers, including justices of the peace, may be charged, tried, and removed from office for official misdemeanors in the manner and for the causes following: *First*—for habitual or willful neglect of duty; *Second*—for gross partiality; *Third*—for oppression; *Fourth*—for extortion; *Fifth*—for corruption; *Sixth*—for willful mal-administration in office; *Seventh*—for conviction of a felony; *Eighth*—for habitual drunkenness. Officers, how removed.

SEC. 2. Any person may make such charge, and the board of commissioners shall have exclusive original jurisdiction thereof by a summons. Charges.

SEC. 3. The proceeding shall be as nearly like those in other actions at the nature of the case admits, excepting where otherwise provided in this chapter. Mode of procedure.

Complaint, how brought.

SEC. 4. The complaint shall be by an accuser against the accused, and shall contain the charges with the necessary specifications under them, and be verified by the affidavit of any elector of the Territory that he believes the charges to be true.

Copy of complaint.

SEC. 5. It will be sufficient that the summons require the accused to appear and answer the complaint of A. B. (naming the accuser) for "official misdemeanors;" but a copy of the complaint must be served with the summons.

Motion to dismiss.

SEC. 6. No answer or other pleading after the complaint is necessary, but the defendant may move to reject the complaint or demur thereto upon any ground, rendering such motion or demurer proper; and he may answer if he desires, and if he answer, the accuser may reply or not, but if there be an answer and reply, the provisions of this Statute relating to the pleadings in actions shall apply.

Judgment of removal.

SEC. 7. The questions of fact shall be tried as in other actions, and if the accused is found guilty, judgment shall be entered removing the officer from his office, and declaring the latter vacant; and the clerk shall enter a copy of the judgment in the election book.

Costs.

SEC. 8. The accuser and the accused are liable to costs as in other actions.

Vacancy.

SEC. 9. When the accused is an officer of the court, and is suspended, the court may supply his place by appointment for the term.

CHAPTER XII.

OF REAL ESTATE AND THE ALIENATION THEREOF BY DEED.

Witness to deeds required.

SEC. 1. Deeds of real estate or of any interest therein in this Territory, except leases for one year or for a less time, must be signed by the grantor, being of lawful age in the presence of at least one competent witness, who shall subscribe his name as a witness thereto, and acknowledged or proved and recorded as directed in this chapter.

Acknowledgment.

SEC. 2. The grantor must acknowledge the instrument to be his voluntary act and deed.

By whom taken.

SEC. 3. The acknowledgment must be made or proved, if in this Territory, before a judge or clerk of any court, or some justice of the peace, or notary public therein; but no officer can take any such acknowledgment or proof out of his Territorial jurisdiction.

SEC. 4. If acknowledged or proved in any other State,

or Territory, or district of the United States, it must be done according to the laws of such State, Territory or district, and must be acknowledged or proved before any officer authorized to do so, by the laws of such State, Territory, or district, or before a commissioner appointed by the Governor of this Territory for that purpose. If in any other State or Territory.

SEC. 5. In all cases provided for in section four of said Certificate. act, except where such acknowledgment is taken before a commissioner appointed by the Governor of this Territory for that purpose, the deed shall have attached thereto, a certificate of the clerk of a court of record, or other proper certifying officer of the county, district, or State, within which the acknowledgment was taken, under the seal of his office, showing that the person whose name is subscribed to the certificate of acknowledgment, was at the date thereof, such officer, as he is therein represented to be, that he is well acquainted with the hand-writing of such officer, and that he believes the signature of such officer to be genuine, and that the deed is executed and acknowledged, according to the laws of such State or Territory.

SEC. 6. If such deed be executed in a foreign country, Foreign deeds it may be executed according to the laws of such country, and the execution thereof may be acknowledged before any notary public therein, or before any minister plenipotentiary, minister extraordinary, minister resident, charge des affaires, commissioner, commercial agent, or consul of the United States appointed to reside therein, which acknowledgment shall be certified thereon by the officer taking the same, under his hand, and if taken before a notary public, his seal of office shall be affixed to such certificate.

SEC. 7. If the grantor die before acknowledgment, or if In case of death of grantor. for any cause his attendance cannot be procured in order to make the same, or having appeared he refuses to acknowledge it, proof of the execution and delivery of the deed may be made by any competent subscribing witness thereto before any officer authorized to take the acknowledgment; and the witness must state upon oath, his own place of residence, that he set his name to the deed as a witness, that he knew the grantor in such deed, and saw him sign or heard him acknowledge he had signed the same, and such proof shall not be taken unless the officer is personally acquainted with such subscribing witness, or has satisfactory evidence that he is the same person who was a subscribing witness to such deed.

SEC. 8. The officer has power to issue the necessary Witnesses. subpoenas for the subscribing witnesses, residing in the same county, to appear before him for the purpose aforesaid.

Forfeiture and imprisonment.

SEC. 9 Every person who, being served with a subpoena, and having been tendered the fees of a witness in a justice's court, shall, without reasonable cause, refuse or neglect to appear, or appearing, shall refuse to answer upon oath, touching the matters aforesaid, shall forfeit to the party injured one hundred dollars; and may also be committed to prison by the officer who issued such subpoena, there to remain without bail until he shall submit to answer upon oath as aforesaid.

Absence or death.

SEC. 10. If all the subscribing witnesses shall be dead, or out of the Territory, such death or absence is first to be proved, and then the execution of the deed may be proved before such officer, by proving the hand-writing of the grantor, and of any subscribing witness to such deed.

Copy of deed may be filed.

SEC. 11. Any person interested in a deed, that is not acknowledged, may at any time before or during the proceedings before such officer, file in the office of the register of deeds of the county where the lands lie, a copy of the deed, compared with the original by the register, which shall, for the space of thirty days thereafter, have the same effect as the recording of the deed, if such deed shall within that time be duly proved and recorded.

Certificate.

SEC. 12. Every officer who shall take the acknowledgment or proof of any deed, shall endorse a certificate thereof, signed by himself, on the deed; and in such certificate shall truly and specifically set forth the matters herein-before required to be done, known, or proved, on such acknowledgment or proof, together with the names of the witnesses examined before such officer, and their places of residence and the substance of the evidence by them given.

Certificate is evidence.

SEC. 13 Every deed acknowledged or proved, and certified by any of the officers before named, including the certificate specified in Sec. 5 of this chapter, whenever such certificate is required by law, may be read in evidence without further proof, and shall be entitled to be recorded. The record of a deed duly recorded, or a transcript thereof duly certified, may also be read in evidence with the like force and effect as the original deed, whenever, by the party's oath or otherwise, the original is known to be lost, or not belonging to the party wishing to use the same, nor within his control. Neither the certificate of the acknowledgment, or of the proof of any deed, nor the record, or transcript of the record of such deed, shall be conclusive, but may be rebutted, and the force and effect thereof may be contested by any party affected thereby. If the party contesting the proof of a deed, shall make it appear that such proof was taken upon the oath of an interested or incompetent witness, neither such deed, nor the record thereof, shall be received in evidence until established by other competent proof.

SEC. 14. The certificate of the proof or acknowledgment of every deed, and the certificate of the genuineness of the signature of any officer, in the cases where such last mentioned certificate is required, shall be recorded, together with the deed so proved or acknowledged; and unless the said certificates be so recorded, neither the record of such deed, nor the transcript thereof, shall be read, or received in evidence. Certificate to be recorded.

SEC. 15. Every deed entitled by law to be recorded, shall be recorded in the order, and as of the time when the same shall be delivered to the register for that purpose, and shall be considered as recorded from the time of such delivery. Time of recording.

SEC. 16. All deeds, mortgages, and other instruments of writing, which are required to be recorded, shall take effect and be in force from and after the time of delivering the same to the register for record, and not before, as to all creditors and subsequent purchasers in good faith without notice; and all such deeds, mortgages, and other instruments, shall be adjudged void, as to all such creditors and subsequent purchasers without notice, whose deeds, mortgages, and other instruments, shall be first recorded: *Provided*, That such deeds, mortgages, or instruments, shall be valid between the parties. Time of taking effect.

SEC. 17. They shall not be deemed lawfully recorded unless they have been previously acknowledged, or proved in the manner herein prescribed. How lawfully recorded.

SEC. 18. The register of deeds must keep an index, the pages of which are so divided as to show in parallel columns: Index, how kept

First—The grantor.

Second—The grantee.

Third—The time when the instrument was filed.

Fourth—The date of the instrument.

Fifth—The nature of the instrument.

Sixth—The book and page where the record thereof may be found.

Seventh—The description of the lands conveyed, in the following manner:

Grantors.		Grantees.		Date of filing.	Date of instrument.	Character of instrument.	Book.	Page.	Description.
A. B.	E. F.	C. D.	G. H.	1855. Jan. 1.	1855. Jan. 1.	Deed.	No. 1.	225.	E. $\frac{1}{2}$ N. E. $\frac{1}{4}$, Sec. 3, T. 1, R. 2 W. Lot 52, in Omaha City, Block 5, S $\frac{1}{2}$, Sec. 10, T. 6, 7, R. 3 W.
I. J.	L. M.			Oct. 7.	June 4.	Deed.			
				Nov. 3.	Dec. 4.	Mortgage.			

Endorsement of
time of registry
on instrument.

SEC. 19. The register must endorse upon every instrument properly filed in his office for record, the minute, hour, day, month and year, when it was so filed and shall forthwith make the returns in the index provided for in the last preceding section, except that of the book and page where the record of the instrument may be found, and from that time such entries shall furnish construction notice to all the world of the rights of the grantee, conferred by such instrument.

SEC. 20. The entries in such index shall be double, the one showing the names of the respective grantors arranged in alphabetical order; the other those of the grantees in like order. When there are two or more grantors having different surnames, there must be as many distinct entries among the grantors, as there are different names, being alphabetically arranged in regard to each of such names. The same rule shall be followed in case of several grantees.

Entries in index to be double.

SEC. 21. Deeds and other instruments relating to or affecting the title of real estate in this Territory, shall be recorded in the county in which such real estate, or any part thereof, is situated; but if such county is not organized, then in the county to which such unorganized county is attached for judicial purposes.

Deeds must be recorded in same county.

SEC. 22. No instrument containing a power to convey, or in any manner to affect real estate, certified and recorded as above prescribed, can be revoked by any act of the parties by whom it was executed, until the instrument containing such revocation is acknowledged and deposited for record, and entered on the index book in the same office in which the instrument conferring the power is recorded.

Revocation.

SEC. 23. It shall be no objection to the record of a deed, that no official seal is appended to the recorded acknowledgment or proof thereof, if, when the acknowledgment or proof purports to have been taken by an officer having an official seal, there be a statement in the certificate of acknowledgment or proof that the same is made under his hand and seal of office, and the records show by a scroll or otherwise, that there was such a seal, which shall be presumptive evidence that the official seal was attached to the original certificate.

Official seal, when not necessary.

SEC. 24. The copy of any record, or of any recorded deed or instrument, attested and authenticated in such manner, as would by law entitle it to be read in evidence, may on proof of the loss of the original and of the record, be again recorded, and such record shall have the same effect as the original record.

Loss of deeds or records.

SEC. 25. Any will of real estate which shall have been duly proved in the probate court of any county in this Territory, and any such will the proof of which shall be contested in that court and carried up by appeal or otherwise, and the validity of which shall be finally established, may, with the certificate of proof annexed thereto be recorded in the office of the register of deeds of the county or counties where the said real estate lies, in the same manner and with like effect as in case of deeds.

Wills may be recorded.

SEC. 26. Any exemplification of any decree or judgment in partition or final decree in chancery affecting real estate, may in like manner be recorded in the register's office in any county, in which any real estate described

Decree and judgment.

therein may be situated; such record or exemplification thereof shall be received in evidence, and shall be as effectual in all cases as the original exemplification would be if produced, and shall be open to the same objection.

How indexed. SEC. 27. On recording any such will, exemplification or decree, the register shall index the same with the indices of deeds, and as near as may be as deeds are to be indexed: placing the name of the deviser, petitioner or plaintiff, with the grantors, and the devisee or defendant with the grantees.

Register to procure books. SEC. 28. Different sets of books shall be provided, by the registers of the several counties, for the recording of deeds and mortgages; in one of which sets, all conveyances absolute in their terms, and not intended as mortgages, or as securities, in the nature of mortgages, shall be recorded; and in the other set, such mortgages and securities shall be recorded.

Deed when considered in the nature of a mortgage. SEC. 29. Every deed conveying real estate, which, by any other instrument in writing, shall appear to have been intended, only as a security in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage; and the person for whose benefit such deed shall be made, shall not derive any advantage from the recording thereof, unless every writing, operating as a defeasance of the same, or explanatory of its being designed to have the effect only of a mortgage, or conditional deed, be also recorded therewith, and at the same time.

Index of mortgages. SEC. 30. The register of deeds shall keep an index of all mortgages and discharges of mortgages left for record and entitled to be recorded, in the same form as is required in case of deeds.

Mortgage, how discharged. SEC. 31. Any mortgage that has been, or may hereafter be recorded, may be discharged by an entry in the margin of the record thereof, signed by the mortgagee, or his personal representative or assignee, acknowledging the satisfaction of the mortgage, in the presence of the register of deeds or his deputy, who shall subscribe the same as a witness, and such entry shall have the same effect as a deed of release duly acknowledged and recorded.

Same. SEC. 32. Any mortgage shall also be discharged upon the record thereof, by the register of deeds in whose custody it shall be, whenever there shall be presented to him a certificate executed by the mortgagee, his personal representatives or assigns, acknowledged or proved and certified as herein before prescribed, to entitle conveyances to be recorded, specifying that such mortgage has been paid, or otherwise satisfied or discharged.

Same. SEC. 33. Every such certificate, and the proof or the acknowledgement thereof shall be indexed in the order of

mortgages and recorded at full length; and in the record of discharge, the register shall make a reference to the book and page where the mortgage is recorded.

SEC. 34. If any mortgagee or his personal representative or assignee, after full performance of the condition of the mortgage, whether before or after a breach thereof, shall, for the space of seven days after being thereto requested, and after tender of his reasonable charges, refuse or neglect to discharge the same as provided in this chapter, or to execute or acknowledge a certificate of discharge, or release thereof, he shall be liable to the mortgagor, his heirs or assigns, in the sum of one hundred dollars damages, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case. Damages in case of refusal to discharge.

SEC. 35. The provisions of this chapter shall apply to the conveyance of all claims and improvements upon the public lands. Claims.

SEC. 36. No grant or conveyance of lands, or interest therein, shall be void for the reason that at the time of the execution thereof, such lands shall be in the actual possession of another, claiming adversely. Conveyance, when void.

SEC. 37. No instrument containing a power to convey, or in any manner to affect real estate, executed, acknowledged or proved, and certified and recorded in conformity with the requirements of this chapter, can be revoked by any act of the party or parties thereto, until the instrument or revocation is executed, acknowledged or proved and certified and filed for record with the register of deeds for the county in which the power is recorded. Instrument, how revoked.

SEC. 38. The register shall mark upon the deed or instrument, after recording the same, the book and page in which the same is recorded. Where rec

SEC. 39. The Governor of this Territory may commission so many commissioners in such of the States and Territories of the United States, or in the District of Columbia, as he may deem expedient, not exceeding one in any one city or county, who shall continue in office four years, and shall have authority to take the acknowledgment and proof of the execution of any instrument in writing, conveying real estate or any interest therein, or affecting the same, lying in this Territory; or of any assignment, transfer, power of attorney, satisfaction of a judgment, or of a mortgage, or of any other writing to be used or recorded in this Territory; also to administer an oath or affirmation to any person who may desire it. Governor may appoint Commissioners.

SEC. 40. Any acknowledgment or proof taken in pursuance of the powers hereby conferred, and in accordance with the provisions of this chapter, and certified by the commissioner, under his hand and official seal upon the instrument mentioned in the preceding section, shall, when Acknowledgment, when valid.

authenticated as hereinafter mentioned, be entitled to be recorded in the office of the register of deeds, and shall have the same force and effect and be as available as if taken or made before any officer by this chapter authorized to take proofs or acknowledgments, residing in this Territory; and any affidavit or affirmation so made before any such commissioner, certified and authenticated as aforesaid, may be read in evidence, and shall be as good and effectual to all intents, as if taken and certified by an officer authorized to administer oaths, residing in this Territory.

Commissioners,
how to qualify.

SEC. 41. Every commissioner appointed as aforesaid, shall, before he performs any duty by virtue of his appointment and of this law, take and subscribe an oath or affirmation before some officer authorized to administer the same, well and faithfully to perform all the duties of such commissioner, under and by virtue of the laws of Nebraska; which oath or affirmation shall be filed in the office of the Secretary of Nebraska. And every such commissioner shall also, before he enters upon the duties of his office, cause to be prepared an official seal, on which shall be designated his name, and the words, "a commissioner for Nebraska," together with the name of the State or Territory, city and county within which he shall reside, and for which he shall have been appointed, and shall transmit to and cause to be filed in the office of said Secretary a distinct impression of such seal taken upon wax or some other substance capable of receiving and retaining a clear impression, together with his signature in his own proper hand writing.

Certificate of
Secretary of Ter-
ritory.

SEC. 42. When any deed or other instrument shall be proved or acknowledged, or any oath or affirmation shall be taken before any commissioner appointed by virtue of this act, before it shall be entitled to be used, recorded or read in evidence; in addition to the preceding requisites, there shall be subjoined or affixed to the certificate, signed and sealed by each commissioner as aforesaid, a certificate under the hand and official seal of the Secretary of Nebraska, certifying that such commissioner was, at the time of taking such proof or acknowledgment, or of administering such oath or affirmation, duly authorized to take the same, and that the Secretary is acquainted with the handwriting of such commissioner, or has compared the signature to such certificate with the signature of such commissioner deposited in his office, and has also compared the impression of the seal affixed to such certificate, with the impression of the seal of such commissioner deposited in his office, and that he verily believes the signature and the impression of the seal of the said certificate to be genuine.

Time and date of
certificate.

SEC. 44. No commissioner appointed under or by vir-

tue of this law, shall be authorized to take the proof or acknowledgment of any deed or instrument, or to administer any oath or affirmation at any place other than that within which he shall reside, or for which he shall have been appointed, and every certificate of any such commissioner to any proof or acknowledgment taken before him, or to any oath or affirmation administered by him, shall specify the day on which, and the city, or town and county within which the same was taken or administered; and without such specification, the said certificate shall be void.

SEC. 44. No acknowledgment of any conveyance having been executed, shall be taken by any officer, unless the officer taking the same, shall know or have satisfactory evidence that the person making such acknowledgment, is the person described in and who executed such conveyance. Acknowledgments, how taken.

SEC. 45. The recording of an assignment of a mortgage shall not, in itself, be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either of them to the mortgagee. Assignment of mortgage.

SEC. 46. All certificates of the register and recorder of any United States' land office, for the entry or purchase of any tract of land, and all letters patent of land from the United States, of lands lying in this Territory, may be recorded in the county in which the land lies, and the record of such certificates and patents, and all copies thereof so recorded, duly certified by the register, shall be prima facie evidence of the existence of such certificates and patents, and as conclusive evidence of the existence of such record.

SEC. 47. Every officer within this Territory, authorized to take the acknowledgment or proof of any conveyance, and every register of deeds who shall be guilty of knowingly stating an untruth, or guilty of any malfeasance, or fraudulent practice in the execution of the duties prescribed to them by law, in relation to the taking, or the certifying the proof, or acknowledgment, or the recording, or certifying, any record of any such conveyance, mortgage, or instrument in writing, or in relation to the canceling of any mortgage, shall, upon conviction, be adjudged guilty of a misdemeanor, and be subject to punishment by fine, not exceeding five hundred dollars, and imprisonment, not exceeding one year, and shall also be liable in damages to the party injured. Penalty for frauds.

SEC. 48. Any real estate belonging to a married woman, may be managed, controlled, leased, devised or conveyed by her by deed, or by will, in the same manner and with like effect as if she were *solâ*. Estate of a married woman

SEC. 49. To convey her right of dower, she must execute a deed with or without her husband. Right of dower.

Term, "Real Estate."

SEC. 50. The term "real estate," as used in this chapter, shall be construed as co-extensive in meaning with "lands, tenements, and hereditaments," and as embracing all chattels real, except leases for a term not exceeding one year.

Purchaser.

SEC. 51. The term "purchaser," as used in this chapter, shall be construed to embrace every person to whom any real estate or interest therein, shall be conveyed for a valuable consideration, and also any assignee of a mortgage, or lease, or other conditional estate.

Deed.

SEC. 52. The term "deed," as used in this chapter, shall be construed to embrace every instrument in writing, by which any real estate or interest therein is created, aliened, mortgaged, or assigned; or by which the title to any real estate may be affected in law or equity; except last wills, and leases for one year or for a less time.

Power of Attorney.

SEC. 53. The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the sale or purchase of lands, when proved or acknowledged, in the manner prescribed in this chapter, may be recorded in the office of the register of deeds of any county, in which the real estate, to which such power or contract relates, may be situated; and when so proved or acknowledged, and the record thereof when recorded, or the transcript of such record, may be read in evidence, in the same manner, and with the like effect, as a conveyance recorded in such county.

SEC. 54. A married woman shall not be bound by any covenant in a joint deed of herself and husband.

Heirs.

SEC. 55. The term "heirs," or other technical words of inheritance, shall not be necessary to create or convey an estate in fee simple.

Conveyance.

SEC. 56. Every conveyance of real estate shall pass all the interest of the grantor therein, unless a contrary intent can be reasonably inferred from the terms used.

What interest passes.

SEC. 57. When a deed purports to convey a greater interest than the grantor was at the time possessed of, any after acquired interest of such grantor, to the extent of that which the deed purports to convey, shall accrue to the benefit of the grantee.

SEC. 58. Estates may be created to commence at a future day.

Construction of instrument.

SEC. 59. In the construction of every instrument creating or conveying, or authorizing, or requiring the creation or conveyance of any real estate, or interest therein, it will be the duty of the courts of justice to carry into effect the true interest of the parties, so far as such intent can be

collected from the whole instrument, and so far as such intent is consistent with the rules of law.

SEC. 60. Any alien may acquire and hold real estate or interest therein, by purchase, devise or descent, and he may convey, mortgage and devise the same, and if he shall die intestate, the same shall descend to his heirs; and in all cases such real estate shall be held, conveyed, mortgaged or devised, or shall descend in like manner, and with like effect, as if such alien were a native citizen of the United States. Aliens may acquire.

CHAPTER XIII.

OF FRAUDULENT CONVEYANCES, AND CONTRACTS RELATIVE TO REAL ESTATE.

SEC. 1. Every conveyance of, or charge upon any estate, or interest in lands, or the rents and profits thereof, made or created with intent to defraud, prior or subsequent purchases for a valuable consideration, shall as against such purchasers be void. Conveyance when void.

SEC. 2. No such conveyance or charge, shall be deemed fraudulent, in favor of a subsequent purchaser, who shall have actual or legal notice thereof, at the time of his purchase, unless it shall appear that the grantor in such conveyance, or person to be benefitted by such charge, was privy to the fraud intended. Subsequent purchaser.

SEC. 3. No estate or interest in lands, other than leases for a term not exceeding one year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assessed, or surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same. Estate conveyed must be by act of law.

SEC. 4. The preceding section shall not be construed to effect in any manner the power of a testator in the disposition of his real estate, by a last will and testament: nor to prevent any trust from arising or being extinguished by implication or operation at law. Power of testator.

SEC. 5. Every contract for the leasing for a longer period than one year, or for the sale of any lands, or any interest in lands, shall be void unless the contract, or some note or memorandum thereof be in writing, and signed by the party by whom the lease or sale is to be made. Contracts, when to be in writing.

SEC. 6. Nothing in this chapter contained, shall be con-

Powers of Court
of Chancery.

strued to abridge the powers of the court of chancery to compel the specific performance of agreements in cases of part performance.

CHAPTER XIV.

OF FRAUDULENT CONVEYANCES AND CONTRACTS, RELATIVE TO GOODS, CHATTELS, AND THINGS IN ACTION.

When void.

SEC. 1. All deeds of gift, all conveyances, and all transfers or assignments, verbal or written, of goods, chattels, or things in action, made in trust for the use of the person making the same, shall be void as against the creditors, existing or subsequent, of such person.

Same.

SEC. 2. In the following cases every agreement shall be void; unless such agreement, or some note or memorandum thereof, be in writing, and subscribed by the party to be charged therewith:

1st—Every agreement that, by its terms, is not to be performed within one year from the making thereof:

2nd—Every special promise to answer for the debt, default, or misdoings of another person:

3d—Every agreement, promise or undertaking, made upon consideration of marriage, except mutual promises to marry::and

4th—Every special promise by an executor, or administrator to answer damages out of his own estate.

Same.

SEC. 3. Every contract for the sale of any goods, chattels, or things in action, for the price of fifty dollars or more, shall be void, unless,

1st—A note or memorandum of such contract be made in writing, and be subscribed by the party to be charged thereby: or

2nd—Unless the buyer shall except and receive part of such goods or the evidences, or some of them, of such things in action: or

3d—Unless the buyer shall, at the time, pay some part of the purchase money.

Goods sold at
auction.

SEC. 4. Whenever goods shall be sold at public auction, and the auctioneer shall, at the time of sale, enter in a sale book, a memorandum specifying the nature and price of the property sold, the terms of sale, the name of the purchaser, and the name of the person on whose account the sale is made, such memorandum shall be deemed a note of the contract of sale, within the meaning of the last section.

SEC. 5. Every sale made by a vendor of goods and chattles in his possession, or under his contract [control] and every assignment of goods and chattels, by way of mortgage or security or upon any condition whatever, unless the same be accompanied by an immediate delivery, and be followed by an actual and continued change of possession, of the things sold, mortgaged or assigned, shall be presumed to be fraudulent and void, as against the creditors of the vendor, or the creditors of the person making such assignment, or subsequent purchasers in good faith: and shall be conclusive evidence of fraud, unless it shall be made to appear, on the part of the persons claiming under such sale or assignment, that the same was made in good faith, and without any intent to defraud such creditors or purchasers.

Sale, when presumed to be void.

SEC. 6. The term "creditors," as used in the last section, shall be construed to include all persons, who shall be creditors of the vendor or assignor, at any time whilst such goods and chattels, shall remain in his possession or under his control.

Creditors.

SEC. 7. Nothing contained in the two last sections, shall be construed to apply to contracts of bottomry or respondentia, nor to assignments or hypothecations of vessels of goods, at sea, or in foreign ports, or upon the waters of a navigable stream, if the assignee or mortgagee shall take possession of such vessels or goods, as soon as may be after the arrival thereof.

Reservation as to certain contracts.

SEC. 8. Every mortgage, or conveyance intended to separate as a mortgage, of goods and chattels hereafter made, which shall not be accompanied by an immediate delivery, and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless the mortgage or a true copy thereof, shall be filed and recorded as directed by law.

Mortgage, when void.

SEC. 9. Every mortgage filed and recorded in pursuance of this chapter shall cease to be valid as against the creditors of the person making the same, or against subsequent purchasers or mortgagees in good faith, after the expiration of one year from the filing thereof; unless within thirty days next preceding the expiration of the year, a true copy of such mortgage, together with a statement exhibiting the interest of the mortgagee in the property mortgaged, shall be again filed and recorded in the office of the register of deeds.

Mortgage, when to be renewed.

SEC. 10. A copy of any such original instrument, or any copy thereof, so filed as aforesaid, including any statement made in pursuance of this act, certified by the register in whose office the same shall be filed, shall be received

When evidence.

in evidence, but only of the fact that such instrument or copy, and statement, was received and filed according to the indorsement of the register thereon, and of no other fact; and in all cases the original indorsement by the register, made in pursuance of this chapter upon such instrument or copy, shall be received in evidence only of the facts stated in such indorsement.

CHAPTER XV.

GENERAL PROVISIONS.

What assignments declared void.

SEC. 1. Every conveyance or assignment, in writing or otherwise, of any estate or interest in lands, or in goods or things in action, or of any rents or profits issuing therefrom, and every charge upon lands, goods or things in action, or upon the rents and profits thereof, made with the intent to hinder, delay or defraud creditors or persons, of their lawful rights, damages, forfeitures, debts or demands, and every bond or other evidence of debt given, suit commenced, or decree or judgment suffered, with the like intent, as against the persons so hindered, delayed or defrauded, shall be void.

Same.

SEC. 2. Every grant or assignment of any existing trust in lands, goods, or things in action, unless the same shall be in writing, subscribed by the party making the same shall be void.

Void as to heirs.

SEC. 3. Every conveyance, charge, instrument or proceeding declared to be void by the provisions of this chapter, as against creditors or purchasers, shall be equally void against the heirs, successors, personal representations or assignees of such creditors or purchasers.

Fraudulent intent.

SEC. 4. The question of fraudulent intent in all cases arising under the provisions of this chapter, shall be deemed a question of fact, and not of law, nor shall any conveyance or charge be adjudged fraudulent, as against creditors or purchasers, solely on the ground, that it was not founded on a valuable consideration.

Same.

SEC. 5. The provisions of this chapter shall not be construed in any manner to affect or impair the title of a purchaser for valuable consideration, unless it shall appear that such purchaser had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

SEC. 6. The term "lands," as used in this chapter, shall be construed as coextensive in meaning with, "lands,

tenements and hereditaments," and the terms "estate and interest in lands," shall be construed to embrace every estate and interest, freehold and chattle, legal and equitable, present and future, vested and contingent in lands, as above described. Lands, tenements &c.

SEC. 7. The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing (except a last will and testament) whatever may be its form, and by whatever name) it may be known in law, by which any estate or interest in lands is created, aliened, assigned or surrendered. Conveyance.

SEC. 8. The consideration of any contract or agreement, required by the provisions of the two preceding chapters to be in writing, need not be set forth in the contract or agreement, or in the note or memorandum thereof, but may be proved by any other legal evidence. Consideration, how proved.

SEC. 9. Every instrument required by any of the provisions of this and the two preceding chapters to be subscribed by any party, may be subscribed by his agent, thereunto authorized by writing. Agent.

SEC. 10. The provisions of this chapter shall not extend to any conveyance, charge, contract, assignment or instrument or proceeding had, made, executed or commenced, before this chapter shall be in force as a law. This act not retrospective.

CHAPTER XVI.

DIVORCE AND ALIMONY.

SEC. 1. Marriages which are declared void by section three, of the chapter entitled, "Of Marriages," are void without any decree of divorce. Marriage void without decree.

SEC. 2. In case of a marriage solemnized when either of the parties was under the age of legal consent, if they shall separate during such non-age, and not cohabit together afterwards, or in case the consent of one of the parties was obtained by force, or fraud, and there shall have been no subsequent involuntary cohabitation of the parties, the marriage shall be deemed voidable. Consent by force or fraud.

SEC. 3. When a marriage is supposed to be void, or the validity thereof is doubted, for any of the causes mentioned, or referred to in the two preceding sections, either party, excepting in the cases where a contrary provision is hereinafter made, may file a petition, or bill in the District Court of the county where the parties, or one of them reside, or in the Court of Chancery for annulling the same, Petition for divorce.

and such petition, or bill shall be filed, and proceedings shall be had thereon, as in the case of a petition or bill filed in said Court for a divorce; and upon due proof thereof, it shall be declared void by a decree or sentence of nullity.

Marriage, how
declared valid.

SEC. 4. When the validity of any marriage shall be denied, or doubted, by either of the parties, the other party may file a bill or petition in the manner aforesaid for affirming the marriage, and upon due proof of the validity thereof, it shall be declared valid by a decree, or sentence of the Court, and such decree, unless reversed on appeal, shall be conclusive upon all persons concerned.

Marriage may
be dissolved
without decree.

SEC. 5. When either party shall [be] sentenced to imprisonment for life, the marriage thereby shall be absolutely dissolved, without any decree of divorce, or other legal process, and no pardon granted to the party so sentenced, shall restore such party to his or her conjugal rights.

Divorce, how
decreed

SEC. 6. A divorce from the bonds of matrimony may be decreed by the District Court of the county where the parties, or one of them reside, on the application by petition or bill of the aggrieved party in either of the following cases:

1. Whenever adultery has been committed by any husband or wife.
2. When one of the parties was physically incompetent at the time of the marriage.
3. When one of the parties has been sentenced to imprisonment in any prison, jail or house of correction for three years or more, and no pardon granted, after a divorce for that cause, shall restore such party to his or her conjugal rights:-
4. Where either party shall willfully abandon the other, without good cause, for the term of two years:
5. When the husband or wife shall have become an habitual drunkard.

Causes for grant-
ing divorce.

SEC. 7. A divorce from the bonds of matrimony or from bed and board, may be decreed for the cause of extreme cruelty, whether practiced by using personal violence, or by any other means; or for utter desertion of either party for the term of two years; and a like divorce may be decreed, on complaint of the wife, when the husband, being of sufficient ability to provide a suitable maintenance for her, shall grossly or wantonly and cruelly refuse or neglect so to do.

Residence.

SEC. 8. No divorce shall be granted unless the complainant shall have resided in this Territory for six months immediately preceding the time of filing the complaint, or unless the marriage was solemnized in this Territory from

the time of the marriage, to the time of filing the complaint.

SEC. 9. No divorce shall be decreed in any case when it shall appear that the petition or bill therefor, was founded in, or exhibited by collusion between the parties, nor where the party complaining shall be guilty of the same crime or misconduct charged against the respondent. Collusion or crime.

SEC. 10. A petition or bill for a divorce may be exhibited by a wife in her own name, as well as a husband; and in all cases the respondent may answer such bill without oath. Petition and bill

SEC. 11. Suits to annul or affirm a marriage, or for a divorce, shall be conducted in the same manner as other suits in courts of equity; and the Court shall have the power to award issues, to decree costs, and enforce its decrees as in other cases. Suit, how conducted.

SEC. 12. In every suit brought either for a divorce, or for a separation, the Court may in its discretion, require the husband to pay any sum necessary to enable the wife to carry on or defend the suit during its pendency; and it may decree costs against either party, and award execution for the same; or it may direct such costs to be paid out of any property sequestered, or in the power of the Court, or in the hands of a receiver. Costs of suit, how paid.

SEC. 13. After the exhibiting of the petition or bill in a suit to annul a marriage, or for a divorce, whether from the bond of matrimony, or from bed and board, the Court may at any time, either in term or vacation, on the petition of the wife, prohibit the husband from imposing any restraint upon her personal liberty during the pendency of the Court. Restraint.

SEC. 14. The Court may in like manner, on the application of either party, make such order concerning the care and custody of the minor children of the parties, and their suitable maintenance, during the pendency of such suit, as shall be deemed proper and necessary, and for the benefit of the children. Maintenance of minor children.

SEC. 15. Upon pronouncing a sentence or decree of nullity of a marriage, and also upon decreeing a divorce, whether from the bond of matrimony or from bed and board, the Court may make such further decree as it shall deem just and proper, concerning the care, custody and maintenance of the minor children of the parties, and may determine with which of the parents the children, or any of them, shall remain. With whom minor children may remain.

SEC. 16. The Court may from time to time, afterwards, on the petition of either of the parents, revise and alter such decree, concerning the care, custody and maintenance of the children, or any of them, and make a new decree concerning the same, as the circumstances of the parents, and the benefit of the children shall require. Court may alter decree.

Possession of
real estate

SEC. 17. Whenever the nullity of a marriage or a divorce from the bonds of matrimony, for any cause, excepting that of adultery committed by the wife, shall be decreed; and when the husband shall be sentenced to imprisonment for life, and also upon every divorce from bed and board, the wife shall be entitled to the immediate possession of all her real estate, in like manner as if her husband were dead.

Court may make
further decree.

SEC. 18. Upon every such dissolution of a marriage, as is specified in the preceding section, and also upon every divorce from bed and board, the Court may make a further decree for restoring to the wife, the whole or such part as it shall deem just and reasonable, of the personal estate that shall have come to the husband, by reason of the marriage, or for awarding to her the value thereof, to be paid by her husband in money.

Court may ap-
point trustees.

SEC. 19. Upon every divorce for adultery committed by the husband, and upon every divorce from bed and board for any cause, when any personal estate of the wife, or money in lieu thereof shall be awarded to her, as provided in the preceding section, the Court, instead of ordering the same to be delivered or paid into the hands of the wife, may order it to be delivered or paid into the hands of a trustee or trustees, to be appointed by the Court, upon trust, to invest the same, and to apply the income thereof to the support and maintenance of the wife, and of the minor children of the marriage, or any of them, in such manner as the Court shall direct.

Trustees to give
bonds

SEC. 20. Such trustees shall also pay over the principal sum to the wife and children of the marriage, when ordered by the Court, in such proportions, and at such times as the Court shall direct, regard being had in the disposition of the said income, as well as of the principal sum, to the situation and circumstances of the wife and children; and the said trustees shall give such bonds as the Court shall require, for the faithful performance of their trust.

Husband may be
examined on
oath.

SEC. 21. Whenever the Court shall think proper to award to the wife any of her personal estate, or any money in lieu thereof, in pursuance of the foregoing provisions, such Court may require the husband to disclose on oath, what personal estate has come to him, by reason of the marriage, and how the same has been disposed of, and what portion thereof still remains in his hands.

Decree for sup-
port of wife and
children.

SEC. 22. Upon every divorce from the bonds of matrimony for any cause excepting that of adultery, committed by the wife, and also upon every divorce from bed and board, from any cause, if the estate and effects restored or awarded to the wife, shall be insufficient for the suitable support and maintenance of herself and such children of the marriage, as shall be committed to her care and cus-

tody, the Court may further decree to her such part of the personal estate of the husband and such alimony out of his estate as it shall deem just and reasonable, having regard to the ability of the husband, and the character and situation of the parties, and all other circumstances of the case.

SEC. 23. When the marriage shall be dissolved by the husband being sentenced to imprisonment for life, and when a divorce shall be decreed for the cause of adultery, committed by the husband, or misconduct or drunkenness of the husband, or on account of his being sentenced to imprisonment for a term of three years or more, the wife shall be entitled to her dower in his lands in the same manner as if he were dead; but she shall not be entitled to dower in any other case of divorce. Wife, when entitled to dower.

SEC. 24. When a divorce shall be decreed for the cause of adultery committed by the wife, the husband shall hold her personal estate forever, and he shall also hold her real estate, so long as they both shall live; and if he shall survive her, he shall hold her real estate for his own life, as tenant by curtesy. When husband may hold real and personal estate.

SEC. 25. In the case last mentioned, the Court may, by the decree, allow the wife for her subsistence, as much of her said personal or real estate, or of the income thereof, as such Court shall judge necessary. Court may allow wife subsistence.

SEC. 26. In all cases where alimony or other allowance shall be decreed for the wife or children, the Court may require sufficient security to be given by the husband for the payment thereof according to the terms of the decree; and upon the neglect or refusal of the husband to give such security, or upon his failure to pay such alimony or allowance, the Court may sequester his personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and cause such personal estate, and the rents and profits of such real estate, to be applied to the payment thereof. Security required to pay alimony.

SEC. 27. After a decree for alimony or other allowance, for the wife and children or either of them, and also after a decree for the appointment of trustees to receive and hold any property for the use of the wife or children as before provided, the Court may from time to time, on the petition of either of the parties, revise and alter such decree respecting the amount of such alimony or allowance, or the payment thereof; and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any decree respecting any of the said matters, which such Court might have made in the original suit. Court may alter and revise decree

SEC. 28. A divorce for the cause of adultery committed by the wife, shall not effect the legitimacy of the issue of the marriage, but the legitimacy of such children, if ques- Legitimacy of children.

tioned, may be determined by the Court upon the proofs in the case, and in every case the legitimacy of all children begotten before the commencement of the suit, shall be presumed until the contrary be shown.

Same.

SEC. 29. Upon the dissolution of a marriage on account of the nonage, insanity, or idiocy of either party, the issue of the marriage shall be deemed to be, in all respects, the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

Prior marriage.

SEC. 30. When a marriage is dissolved on account of a prior marriage of either, and it shall appear that the second marriage [was contracted in good faith and with the full belief of the parties that the former wife or husband] was dead, the fact shall be stated in the decree of divorce or nullity, and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be legitimate issue of the parent, who at the time of the marriage, was capable of contracting.

Consanguinity.

SEC. 31. Upon the dissolution, by decree or sentence, of nullity of any marriage that is prohibited on account of consanguinity between the parties, or of any marriage between a white person and a negro, the issue of the marriage shall be deemed to be illegitimate.

Penalties.

SEC. 32. If any persons, after being divorced from the bond of matrimony, for any cause whatever, shall cohabit together, they shall be liable to all the penalties provided by law against adultery.

Marriage, how annulled.

SEC. 33. A bill to annul a marriage on the ground that one of the parties was under the age of legal consent, may be exhibited by the parent or guardian entitled to the custody of such minor, but in no case shall such marriage be annulled on the application of a party who was of the age of legal consent at the time of the marriage, nor when it shall appear that the parties, after they had obtained the age of consent, had freely cohabited as man and wife.

Same.

SEC. 34. A bill to annul a marriage on the ground of insanity or idiocy may be exhibited by any person admitted by the Court to prosecute as the next friend to such idiot or lunatic.

Lunatic.

SEC. 35. The marriage of a lunatic may also be declared void upon the application of the lunatic, after the restoration of reason, but in such case no sentence of nullity shall be pronounced, if it shall appear that the parties freely cohabit as husband and wife, after the lunatic was restored to a second mind.

Force of fraud.

SEC. 36. If there shall be any issue of a marriage annulled on the ground of force or fraud, the Court shall decree their custody to the innocent person, and may also decree a provision for their education and maintenance out of the estate and property of the guilty party.

SEC. 37. A suit to annul a marriage on the ground of ^{Physical incapacity.} the physical incapacity of one of the parties, shall only be maintained by the injured party against the party whose incapacity is alleged, and shall, in all cases, be brought within two years from the solemnization of the marriage.

SEC. 38. No decree of divorce and of the nullity of a ^{Confession and admission.} marriage shall be made solely on the declarations, confessions, or admissions of the parties, but the Court shall, in all cases, require other satisfactory evidence of the facts alleged in the bill for that purpose.

SEC. 39. In any suit brought for a divorce on the ^{In what cases Court may deny divorce.} ground of adultery, although the fact of adultery be established, the Court may deny a divorce in the following cases:

1. When the offence shall appear to have been committed by the procurement, or with the connivance of, the complainant.
2. When the offence charged shall have been forgiven by the injured party, and such forgiveness be proved by express proof, or by the voluntary cohabitation of the parties with the knowledge of the offence.
3. When there shall have been no express forgiveness and no voluntary cohabitation of the parties, but the suit shall not have been brought within five years after the discovery by the complainant of the offence charged.

SEC. 40. In case of an application for a divorce from ^{Order for maintenance.} bed and board, although a decree for such divorce be not made, the Court may make such order or decree for the support and maintenance of the wife and children, or any of them, by the husband, or out of his property, as the nature of the case may render suitable and proper.

SEC. 41. When a decree of divorce from bed and board ^{Residence.} forever, or a limited time, shall have been pronounced, it may be revoked at any time thereafter, under such regulation and restorations as the Court may impose upon the joint applications of the parties, and their producing satisfactory evidence of their reconciliation.

SEC. 42. If any married woman, at the time of exhibiting a bill against her husband, under the provisions of either of the last two articles, shall reside in this Territory, she shall be deemed an inhabitant thereof, although her husband may reside elsewhere.

CHAPTER XVII.

OF GUARDIANS AND WARDS.

Who are minors

SEC. 1. All male children under twenty-one, and all females under eighteen years of age, are declared to be minors; but in case a female marries between the age of sixteen and eighteen, her minority ends.

Guardians, how appointed.

SEC. 2. The court of probate in each county, when it shall appear to him necessary or convenient, may appoint guardians to minors and others, being inhabitants or residents in the same county, and also to such as shall reside without the Territory and have any estate within the same.

When minor is under the age of fourteen.

SEC. 3. If the minor is under the age of fourteen years, the court of probate may appoint his guardian, and if he is above the age of fourteen years, he may nominate his own guardian, who, if approved by the court, shall appoint accordingly.

In case such guardian is not approved by the court, or the minor neglects to nominate.

SEC. 4. If the guardian nominated by such minor shall not be approved by the court, or if the minor shall reside out of the Territory, or if, after being cited by the court, he shall neglect to nominate a suitable person, the court may appoint the guardian in the same manner as if the minor were under the age of fourteen years.

If minor resides more than ten miles from place of holding court, his nomination may be certified by a justice.

SEC. 5. When such minor, being above the age of fourteen years, shall reside more than ten miles from the place of holding the court, his nomination of a guardian may be certified to the court of probate by a justice of the peace, which shall have the same effect as if made in the presence of the court.

When parents may be guardians.

SEC. 6. The father of the minor, if living, and in case of his decease, the mother, while she remains unmarried, being themselves respectively competent to transact their own business, and not otherwise unsuitable, shall be entitled to the custody of the person of the minor, and to care for his education.

If minor is an orphan, the guardian shall have the custody, &c., of ward.

SEC. 7. If the minor have no father or mother living, and competent to have the custody and care of the education of such minor, the guardian so appointed shall have the custody and tuition of his ward.

Guardian shall have care of minor's estate until his majority.

SEC. 8. Every guardian, appointed as aforesaid, shall have the care and management of the estate of the minor, and shall continue in office until such minor shall arrive at

the age of twenty-one, if a male, or eighteen years, if a female, or until the guardian shall be discharged according to law.

SEC. 9. Every such guardian shall give bond with surety or sureties to the Judge of Probate, in such sum as the court shall order, with condition as follows:

Bond of guardian.

1st. To make a true inventory of all the real and personal estate of the ward that shall come to his possession or knowledge, and to return the same into the court at such time as the law directs.

To make an inventory.

2d. To dispose of and manage all such estate and effects according to law, and for the best interests of the ward, and faithfully to discharge his trust as such guardian.

Faithfully to discharge his trust.

3d. To render an account on oath of the property in his hands including the proceeds of all the real estate which may be sold by him, and of the management and disposition of such property, within one year after his appointment, and at such other times as the court shall direct; and,

To render an account of property in his possession.

4th. At the expiration of his trust, to settle his accounts, with the court, or with the ward, or his legal representatives, and to pay over and deliver all the estate and effects remaining in his hands, or due from him, on such settlement to the person or persons who shall be lawfully entitled thereto.

To settle his accounts with the court, and deliver property to person entitled thereto.

SEC. 10. If any minor, who has a father living, has property, the income of which is sufficient for his maintenance and education in a manner more expensive than such father can reasonably afford, regard being had to the situation of the father's family, and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as shall be judged reasonable, and shall be directed by the court, and the charges therefor may be allowed accordingly in the settlement of the accounts of such guardian.

Minor with sufficient property, shall defray expenses from his own estate.

SEC. 11. Every father may, by his last will, in writing, appoint a guardian or guardianess for any of his children, whether born at the time of making the will or afterwards, to continue during the minority of the child, or for any less time, and every such testamentary guardian shall have the same powers and shall perform the same duties with regard to the person and estate of the ward as a guardian appointed by the court.

Guardian may be appointed by will.

SEC. 12. Every such testamentary guardian shall give bond in like manner and with like condition as is hereinbefore required of a guardian appointed by the court: *Provided*, that when the testator, in the will appointing the guardian, shall have ordered or requested that such bond

When, shall give bond.

shall not be given, the bond shall not be required unless from a change in the situation or circumstances of the guardian, or for other sufficient cause the court shall think proper to require it.

Power of court
to appoint guar-
dians, shall not
be impaired.

SEC. 13. Nothing contained in this chapter shall impair or affect the power of any court to appoint guardians to defend the interests of minors, impleaded in such court, or interested in any matter then pending, nor their power to appoint or allow any person as next friend for a minor to commence, prosecute or defend any suit in his behalf.

When court
shall appoint.

SEC. 14. When the relation or friends of any insane person, or of any person who, by reason of extreme old age, or other cause, is mentally incompetent to have the charge and management of his property, shall apply to the court of probate to have a guardian appointed for him, the court shall cause a notice to be given to the supposed insane or incompetent person of the time and place of hearing the cause not less than fourteen days before the time so appointed.

Notice.

Guardian when
to be appointed.

SEC. 15. If, after a full hearing and examination, upon any such application, it shall appear to the court that the person in question is incapable of taking care of himself and managing his property, it shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

Duties.

SEC. 16. Every guardian so appointed, as provided in the preceding section, shall have the care and custody of the person of his ward and the management of all his estate until such guardian shall be legally discharged, and he shall give bond to the judge of probate in like manner and with the like conditions as is before prescribed with respect to the guardian of the minor.

Bond.

When guardian
may be appoint-
ed for spend-
thrift.

SEC. 17. When any person, by excessive drinking, or by gaming, idleness or debauchery of any kind, shall so spend, waste or lessen his estate as to expose himself or family to danger of want or suffering, or the county to charge or expense, for the support of himself or family, any officer having charge of the poor of the county, or justice of the peace of the county of which such spendthrift is an inhabitant, or in which he resides, may present a complaint to the court of probate, setting forth the facts and circumstances in the case, and praying to have a guardian appointed for him.

Notice.

SEC. 18. The court shall cause notice to be given to such supposed spendthrift of the time and place of hearing the case, not less than ten days before the time so appointed, and if, after a full hearing, it shall appear to court that the person complained of comes within the provision contained in the preceding section, he shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

SEC. 19. After the order for notice has been issued, the complainant may cause a copy of the complaint, with the order for such notice, to be filed in the office of the Register of deeds, of the county, and a minute thereof to be entered on the lien book in said office; and if a guardian shall be appointed on such application, all contracts, except for necessities at reasonable prices, and all gifts, sales, and transfers of real or personal estate, made by such spendthrift, after the filing of a copy of such complaint and order, as aforesaid, and before the termination of the guardianship, shall be utterly void.

Copy of complaint shall be recorded.

Contracts void.

SEC. 20. When a guardian shall be appointed for an insane person, or a spendthrift, the court shall make an allowance, to be paid by the guardian, for all reasonable expenses incurred by the ward, in defending himself against the complaint.

Allowance to ward.

SEC. 21. Every guardian appointed for a spendthrift, shall have the care and custody of the person of the ward, and the management of all his estate, until the guardian shall be legally discharged, and he shall give bond to the judge of probate, in like manner and with like condition, as is hereinbefore directed with respect to the guardian of an insane person.

Powers and duties of guardians

Bond.

SEC. 22. Every guardian appointed under the provisions of this chapter, whether for a minor or for any other person, shall pay all just debts due from the ward out of his personal estate, and the income of his real estate if sufficient; or, if not, then out of his real estate, upon obtaining license for the sale thereof, and disposing of the same in the manner provided by law.

How debts shall be paid.

SEC. 23. Every such guardian shall also settle all accounts of the ward, and demand, sue for, and receive all debts due him, or may with the approbation of the court, compound for the same, and give a discharge to the debtor, on receiving a fair and just dividend of his estate and effects, and he shall appear for and represent his ward, in all legal suits and proceedings, unless where another person is appointed for that purpose, as guardian or next friend.

Duties of guardian.

SEC. 24. Every guardian shall manage the estate of his ward frugally and without waste, and apply the income and profit thereof, as far as may be necessary for the comfortable and suitable maintenance and support of the ward, and his family, if there be any, and if such income and profits shall be insufficient for that purpose, the guardian may sell the real estate, upon obtaining a license therefor, as provided by law, and shall apply the proceeds of such sale, as far as may be necessary for the maintenance and support of the ward, and his family, if there be any.

Management of ward's estate.

Maintenance.

SEC. 25. The guardian may join in, and assent to a partition of the real estate of the ward, in the cases and in

Partition and assignment of dower.

the manner provided by law, and he may also assign and set out dower in the said estate, to any widow entitled thereto.

Oath.

SEC. 26. Every guardian appointed by virtue of this chapter, shall before entering upon his duties, take and subscribe an oath that he will faithfully perform the duties of guardian to such ward, which oath shall be indorsed upon the inventory, and shall, within three months after his appointment, make out a true and perfect inventory of all the property of the ward, in this Territory, which shall come to his knowledge or possession, and shall within that time, cause the same to be appraised by three suitable persons, to be appointed and sworn in like manner as is required with respect to the inventory of the estate of a deceased person, and every guardian shall account for and dispose of the estate of the ward, in like manner as is directed, with respect to executors or administrators.

Inventory.

Appraisement.

Power of guardian to sell persons estate.

SEC. 27. The Courts of Probate in their respective counties on the application of a guardian or of any person interested in the estate of any ward, after such notice to all persons interested therein as the court shall direct, may authorize or require the guardian to sell and transfer any stock in public funds, or in any bank or corporation, or any other personal estate or effects held by him as guardian, and to invest the proceeds of each sale, and also any other moneys, in his hands, in real estate, or in any other manner that shall be most for the interest of all concerned therein, and the said court may make such further orders, and give such directions, as the case may require, for managing, investing, and disposing of the estate and effects in the hands of the guardian.

When guardians may be removed

SEC. 28. When any guardian appointed, either by testator or Court of Probate, shall become insane, or otherwise incapable of discharging his trust or evidently unsuitable therefor, the court after notice to such guardian and all others interested, may remove him, and every guardian may upon his request be allowed to resign his trust when it shall appear to the court proper to allow the same, and upon every such resignation or removal, and upon the death of any guardian, the court may appoint another in his place.

Court may appoint.

Neglect of duty.

SEC. 29. If any guardian having the care and custody of such minor shall neglect to well feed and clothe him, or her, or in any way maltreat or abuse him or her, he shall upon conviction thereof be fined not exceeding one hundred dollars, or imprisoned in the county jail, not exceeding sixty days, or both at the discretion of the court.

How suit may be commenced.

SEC. 30. Suit may be commenced by any one against such person who shall have such minor in charge, by filing an information with the probate judge, or a justice of the

peace in the county where said guardian resides, and the said judge of probate or justice of the peace shall issue a warrant directed to the sheriff or constable who shall arrest and bring said guardian forthwith before him to answer such charge.

SEC. 31. If upon testimony it shall appear to the satisfaction of the judge of probate that the person having in charge such minor, is unfit for the trust, and that the condition of such minor would be ameliorated by the removal of such guardian, then said judge shall remove him and appoint some other person to act as guardian.

Removal and appointment.

SEC. 32. No action shall be maintained against the sureties in any bond given by the guardian, unless it be commenced within four years from the time when the guardian shall have been discharged: *Provided*, That if at the time of such discharge the person entitled to bring such action shall be out of the Territory, or under any legal disability to sue, the action may be commenced at any time within four years after the return of such person to the Territory, or before such disability shall be removed.

Limitation of actions on guardians' bond.

SEC. 33. Upon complaint made to the court by any guardian or by the ward, or by any creditor or other person interested in the estate, or by any person having any prospective interest therein, as heir or otherwise, against any person as having concealed, embezzled or conveyed away any of the money, goods or effects, or any instrument in writing belonging to the ward, the court may cite and examine such suspected person, and proceed with him as to such charge, in the same manner as is provided with respect to persons suspected of concealing or embezzling the effects of a deceased testator or intestate.

Embezzlement of ward's property punished.

SEC. 34. When any minor, or other person liable to be put under guardianship, according to the provisions of this chapter shall reside without this Territory and shall have any real estate therein, any friend of such person, or any one interested in his estate, in expectancy, or otherwise, may apply to the court of probate of any county in which there may be any estate of such absent person; and after notice given to all persons interested, in such manner as the court shall order, and after a full hearing and examination of, it shall appear to him proper, it may appoint a guardian for such absent person.

Non-resident minor.

SEC. 35. Every guardian appointed according to the provisions of the preceding section, shall have the same powers, and perform the same duties, with respect to any estate of the ward, that shall be found within this Territory, and also with respect to the person of the ward, if he shall come to reside therein, as are prescribed with respect to any other guardian appointed by virtue of this chapter.

Powers of guardian of a non-resident.

Bond.

SEC. 36. Every such guardian shall give bond, to the judge of probate, in like manner, and with like condition, as is herein-before prescribed, with respect to other guardians, excepting that the provisions respecting the inventory, the disposal of the estate and effects, and the account to be rendered by the guardian, shall be confined to such estate and effects, as shall come to his hands in this Territory.

Priority of appointment.

SEC. 37. The guardianship which shall be first lawfully granted to any person residing without the Territory shall extend to all the estate of the ward within the same, and shall exclude the jurisdiction of the probate court in every other county.

Compensation of guardian.

SEC. 38. Every guardian shall be allowed the amount of his reasonable expenses incurred in the execution of his trust, and he shall also have such compensation for his services, as the court in which his accounts are settled, shall deem to be just and reasonable.

Accounts of joint guardians.

SEC. 39. When an account is rendered by two or more joint guardians, the court may in its discretion allow the same upon the oath of any one of them.

GENERAL PROVISIONS.

Who are spendthrifts.

SEC. 40. The word spendthrift in all its provisions relating to guardians and wards, contained in this or any other statute, is intended to include every person who is liable to be put under guardianship, on account of excessive drinking, gaming, idleness, or debauchery.

CHAPTER XVIII.

TO ORGANIZE THE NEBRASKA VOLUNTEERS.

Name.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That there shall be formed an Independent Volunteer Military organization, to be known and styled as the Nebraska Volunteers.

Territory to be one division and two brigades.

SEC. 2. The Territory of Nebraska shall constitute one division; said division shall consist of two brigades. All that portion of the Territory lying north of Platte River shall constitute the *first* brigade, and all that portion of the Territory lying south of the Platte River shall constitute the *second* brigade.

Regiments and battalions may be formed.

SEC. 3. Regiments and battalions may be formed in each brigade according—as in the opinion of the commanding officers of the brigade and division—the increase of

the population and the wants of the service may require. The number in each regiment, including officers and men, shall not exceed one thousand.

SEC. 4. Companies may be formed by the voluntary enrollment of individuals; and no company shall exceed sixty-four, including officers and men; and each company may determine to which branch of the service it shall belong—whether infantry, cavalry, artillery, or rifles. Companies.

SEC. 5. The officers shall be as follows:—The Governor shall be the commander-in-chief of all the forces of the Territory. There shall be one major-general in command of the division; one brigadier-general in command of each brigade; and one brigade inspector attached to each brigade. Officers.

The regimental officers shall consist of a colonel, lieutenant-colonel, major, adjutant, surgeon, quartermaster and commissary. Same.

The company officers shall consist of a captain, 1st lieutenant, 2d lieutenant, and one orderly sergeant, and one corporal. Same.

SEC. 6. The officers shall be elected as follows: the major-general and two brigadier-generals shall at the first election, be chosen by the two Houses of the General Assembly in joint convention; but any vacancy occurring in those offices thereafter, the same shall be filled by election by the commissioned officers of each brigade and regiment, and all other brigade and regimental officers shall be elected by the commissioned officers of each brigade and regiment. Officers—how elected.

Each company shall elect its own officers. All officers shall be commissioned by the Governor. All officers commissioned by governor

SEC. 7. Each company shall meet three times in each year, viz: on the first Tuesday of April, May, and June, for exercise in the drill and military evolutions, and at such time and place in the autumn of each year as the major-general shall designate. Meetings of companies

There shall be an encampment of three days' duration of each brigade, for the purpose of drill, inspection, and review. Encampment.

SEC. 8. It shall be the duty of the commanding officer of each regiment to report to the major-general on or before the first of May and the first of October of each year, the condition and strength of each company belonging to his command; and the major-general shall report the same to the Governor and commander-in-chief. Reports as to condition.

SEC. 9. Each company shall be supplied with arms from the quota of arms belonging to the Territory. Companies to be supplied with arms.

SEC. 10. All companies heretofore organized, and whose officers are commissioned, shall be considered as enrolled under this act.

Organization to
be subordinate
to civil authority

SEC. 11. The organization provided for in this act, shall in all respects be subordinate to the civil authority. The troops enrolled under it, shall obey such orders as they may receive from the Governor and commander-in-chief, and from their superior officers.

Governor may
order military
into active ser-
vice.

SEC. 12. And the Governor is hereby authorized to order into active service such forces as he shall deem proper, whenever in his judgment it shall be necessary, in order to protect the lives and property of the people of the Territory, and to preserve the public peace.

Under what cir-
cumstances.

But in no case shall the Governor exercise the authority herein conferred upon him, until it shall appear that the lives and property of the people and the public peace can not be preserved without the aid of a military force.

SEC. 13. This act shall take effect from and after its passage.

CHAPTER XIX.

TO PREVENT THE USE OF INTOXICATING LIQUORS AMONG THE INDIANS, OR HALF BREEDS IN THIS TERRITORY.

Giving or selling
liquors to In-
dians prohibi-
ted—Penalty.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That from and after the passage of this act, it shall not be lawful for any person to sell, give away, or in any way, manner, or subterfuge, traffic, trade, exchange or otherwise dispose of any intoxicating liquors to any Indian or Half Breed residing in, or passing through this Territory, and for every such offense, or violation of this law, the offender shall be fined not less than twenty-five, nor more than five hundred dollars, or imprisonment in the county jail, for the space of not less than twenty days, for each and every offence to be adjudged before any civil tribunal in this Territory.

Same.

SEC. 2. And for the second offence, shall be fined not less than one hundred dollars, or imprisonment in the county jail one year.

Sheriffs &c., to
report viola-
tions.

SEC. 3. It shall be the duty of the sheriffs, constables, justices, and all peace officers, as well as grand jurors, to take notice of violations of this law, and bring offenders to justice, and for every failure on the part of any such officers to report such violation, they shall be fined the same as though they were guilty of the offence themselves.

Citizens to aid
in enforcement,
&c.

SEC. 4. It is the duty of all good citizens to enforce this law, and wherever liquor is found in the possession of Indians or Half Breeds, it is the duty of all citizens to

destroy such liquor, as well as the duty of all peace officers.

SEC. 5. The fines, one-half to go to the benefit of common schools, and the other to be appropriated to defraying the expenses of suits brought under this act. Fines—who entitled to.

SEC. 6. It shall be "prima-facie" evidence of a violation of this law, whenever an Indian or Half Breed shall be found in a room with closed doors, where intoxicating liquors are kept, or seen with a jug, or other vessel which will hold such liquor, going from any place where it is known to be kept, or where any suspicion shall rest upon such place of selling such liquors, and it is made the duty of all peace officers to see if there is any of said liquors with such Indian, and on finding such shall destroy the same, and report the same to the proper civil authority. Prima facie evidence of violation of this act—what.

SEC. 7. Any person or Ferry, bringing any intoxicating liquors over the Missouri River for any Indian or Half Breed, into the Territory of Nebraska, shall be deemed guilty of a violation of this law. Ferries &c., prohibited from transporting liquors for Indians, &c.

SEC. 8. An information or indictment under this act, may allege any number of violations of its provisions by the same party, and he may be found guilty of, and punished for each offence as under separate information or indictment, but a separate judgment must be entered in each instance in which a verdict of guilty is found. Indictment, &c.

CHAPTER XX.

TO ESTABLISH THE TEN HOUR SYSTEM.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That ten hours shall constitute one day's labor, so far as it concerns laborers and mechanics, that it be a general, uniform law throughout the Territory. Ten hours a day's labor.

SEC. 2. This act to take effect from and after its passage.

CHAPTER XXI.

ESTABLISHING THE MODE OF LOCATING AND CHANGING
COUNTY SEATS.

County seats—
how first loca-
ted.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That whenever any county shall be organized in the Territory, after the passage of this act, the qualified voters thereof are hereby empowered to select the place of their county seat by a vote at the first election held in the county for the choice of county officers; for this purpose, each voter may designate on his ballot the place of his choice for the county seat, and when the votes are canvassed, the place having a majority of all the votes polled, shall be the county seat, and public notice of said location shall be given within thirty days, by the tribunal transacting county business, by posting up notices in three several places in each precinct in the county.

How changed.

SEC. 2. Whenever the inhabitants of any county are desirous of changing the place of their county seat, and upon petitions being presented to the tribunal transacting county business, signed by two-thirds of the qualified voters of the county, it shall be the duty of said tribunal in the notices for the next general election, to notify said voters to designate upon their ballots at said election, the place of their choice; and if upon canvassing the votes so given, it shall appear that any one place has two-thirds of the votes polled, such place shall be the county seat, and notice of such change shall be given as hereinbefore provided in the case of the location of county seats of new counties.

If no place has a
majority, an-
other election
to be held.

SEC. 3. If no one place has a majority of all the votes polled, as provided for in section one, it shall be the duty of the tribunal transacting county business, within one month after said election, to order a special election, and give ten days notice thereof, by posting up three notices in each precinct in the county, at which election votes shall be taken by ballot between the three highest places voted for at the first election. And if no choice is made at such election, notice of another election shall be given as above provided for, to decide between the two highest places voted for at the last election, and the place having the highest number of votes shall be the county seat.

SEC. 4. Whenever any county seat shall be located upon the public lands, it shall be the duty of the tribunal transacting county business to enter a quarter section of land at the place so designated, at the expense of, and for the use of the county within three months thereafter, if said land be subject to private entry; if not, he shall claim the same as a pre-emption under the laws of the United States, for the use of said county. Proceedings, when located on public lands.

SEC. 5. The aforesaid tribunal shall, within three months after the selection, cause the same to be surveyed into town lots, squares, streets, and alleys, and platted and recorded in pursuance of law; and shall select the place for the county buildings thereon, reserving for that purpose so many of said lots as may be deemed necessary. Survey and plats.

SEC. 6. The remainder of said lots shall be offered at public sale by the sheriff of said county to the highest bidder, at the times and places to be designated in the notices of such sales, which shall be posted at three public places in the county, and published in some newspaper, at least thirty days previous to such sales. The terms of sale shall be one-third cash, and the balance on time, as the county tribunal may deem best, and may dispose of lots at private sale, upon terms as above provided for. Public sale of lots by the sheriff.

SEC. 7. Purchasers of the aforesaid lots shall receive a certificate of purchase from said sheriff, entitling the holder to a warrantee deed from the county tribunal, when payment in full shall be made for the same. Any lots sold as above, that shall not be paid for as provided for in this act, or within one year thereafter, shall be forfeited to the county, and shall be again sold as hereinafter provided. Certificates to purchasers

SEC. 8. The proceeds of the sales of the aforesaid lots, after deducting the expenses of surveying, advertising, selling, and all other necessary expenses, shall be paid into the county treasury, and shall constitute a fund for the erection of public buildings for the use of the county seat, at the county seat, and shall be used for no other purpose whatever. Proceeds of sale—how applied

SEC. 9. If any county which may collect a building fund by the provisions of this act, it shall be the duty of the tribunal transacting county business, within one year from the time such fund becomes available, to advertise, by publishing in a newspaper at least three months, for bids for building a court house, jail and offices for register of deeds and county clerk, if the above specified fund in their judgment, may be sufficient for that purpose. County buildings.

Said advertisement for bids, to contain plans and specifications for such buildings, and also the time allowed to complete the same. The lowest responsible bid shall in all cases be accepted, and the contracts for such buildings Letting of work, &c.

shall be so conditioned, that not more than one-half the payment for the same shall be made until the contract shall be completed to the satisfaction of the said tribunal.

SEC. 10. This act shall take effect from and after its passage.

CHAPTER XXII.

Acts repealed. SEC. 1. The following acts and parts of acts are hereby repealed.

"An act revising, consolidating and preparing a general code for the Territory of Nebraska," "approved January 26, 1856," except chapter fifty-one of said act, relating to marriages.

"An act to organize the Nebraska volunteers," "approved January 23, 1856."

"An act to prevent the use of intoxicating liquors among the Indians and Half Breeds of this Territory," "approved January 26, 1856."

"An act to establish the ten hour system," "approved January 26, 1856;" "an act establishing the mode of locating and changing county seats," "approved January 26, 1856."

Saving clause. "An act concerning weights and measures," "approved January 26, 1856;" and all acts and parts of acts, inconsistent with the provisions of this act; *Provided*, that all rights, liabilities, actions and causes of actions that may have heretofore arisen or accrued, or may hereafter arise or accrue in any of the courts of this Territory, or elsewhere, under any of the provisions of any of the laws herein revised, amended, consolidated or repealed by the provisions of this act, are hereby saved, and the same shall be, and remain in full force and effect, and may be prosecuted to final conclusion or determination and maintained, and held good and valid, the same as if this act had not passed.

Approved February 15th, 1864.

AN ACT

To Create and Regulate Incorporations in the Territory of Nebraska.

COLLEGES, UNIVERSITIES, NORMAL SCHOOLS, ACADEMIES, &C.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That any number of persons, not less than five, desiring to establish a college, university, normal school, or other institution for the purpose of promoting education, religion, morality, agriculture or the fine arts, may, by complying with the provisions of this act, become a body corporate and politic with perpetual succession, and may assume a corporate name by which they may sue and be sued, plead and be impleaded in all courts of law and equity, may have a corporate seal and the same alter and break at pleasure, may hold all kinds of estate, real, personal or mixed, which they may acquire by purchase, donation, devise, or otherwise, necessary to accomplish the objects of the corporation, and the same to dispose of and convey at pleasure.

Corporations—
how formed.

SEC. 2. To ascertain the property and value thereof, of any institution desirous of becoming a body corporate, under the provisions of this act, it shall be the duty of the Probate Judge of any county of this Territory, on application in writing, of any number of persons not less than five, of whom not less than five shall be resident freeholders of the county where such application is made, or where such institution is or is intended to be located, setting forth the objects for which they desire to become incorporated; to select three disinterested freeholders of the county and voters therein, as appraisers, who shall first take an oath for the faithful discharge of their duties, before some competent officer, and such appraisers shall then proceed to make a schedule and upon actual view to appraise the true value, in money, of all such goods, chattles, lands and tenements, choses in action, rights, credits and subscriptions as such applicants shall exhibit to such appraisers, and shall return such schedule with their appraisements and certificate of some officer authorized to administer oaths, that such appraisers were first duly sworn by him to discharge their duties as such appraisers, to the Probate Judge of the proper county, and if the

Value of prop-
erty—how ascer-
tained.



GENERAL LAWS.

Same.

amount so found shall be equal to the sum required for the commencement of any such institution as said applicants desire, such Probate Judge shall give such applicants a certificate of the fact, and they shall enter it in a book of records, by them provided for that purpose, which together with the corporate name and the articles of association, they shall also cause to be recorded in the county clerk's office of the county where such institution is or is intended to be located, and they shall thenceforward be a body corporate and politic, according to the provisions of this act; and such Probate Judge, appraisers and county clerk shall be entitled to the same fees as for like services in other cases, and no more.

Trustees or directors—by whom chosen.

SEC. 3. The corporators of any college or university, which may be organized in accordance with the provisions of this act, may elect five or more trustees of whom not less than five shall be resident freeholders of the county where such college or university is located, who shall constitute a board of directors for such institution, and they shall have power to fill vacancies that may occur in their board, and shall hold their offices until their successors are elected and qualified according to the rules and by-laws that may be adopted by the board of trustees, but at all times at least five of such board of trustees shall be residents, freeholders of the county where such institution is located; and when any such board, in their corporate name shall have acquired for the benefit of such institution five thousand dollars, in real and personal property, to be ascertained as hereinbefore provided, said trustees shall have power to appoint a president, professors, tutors, and teachers, and any other necessary agents and officers, and fix the compensation of each, and may enact such by-laws not inconsistent with the laws of this Territory or the United States, for the government of the institution, and for conducting the affairs of the corporation, as they may deem necessary, and shall have power to confer, on the recommendations of the faculty, all such degrees and honors as are conferred by colleges and universities of the United States, and such others having reference to the course of study and the accomplishment of the student, as they may deem proper.

Corporation not dissolved by failure to elect, etc.

SEC. 4. In case it should happen that an election for directors should not be held on the day appointed by the by-laws of any institution or company formed under the provisions of this act, such corporation shall not, for that reason, be deemed to be dissolved, but it shall be lawful on any other day to hold a meeting and elect its directors in such manner as shall be prescribed by the by-laws thereof.

Trustees may hold property.

SEC. 5. The trustees of any university, college, or academy may hold, in trust, any property devised, bequeathed

or donated to such institution, upon any specific trust, consistent with the object of said corporation.

SEC. 6. The president and professors shall constitute ^{Faculty.} the faculty of any literary college or university instituted under the provisions of this act, and have power to enforce the rules and regulations enacted by the trustees for the government and discipline of the students, and to suspend and expel offenders, as may be deemed necessary.

SEC. 7. When any number of persons shall have procured by subscription, donation, devise, purchase, or otherwise, the sum of five hundred dollars, for the purpose of establishing and sustaining an academy; such persons may adopt a corporate name and enter the same in the county clerk's office of the proper county, and proceed to the election of such officers and teachers as they may deem necessary, and in their corporate name sue and be sued, plead and be impleaded, in any court of law or equity of competent jurisdiction, and may have a corporate seal, may purchase and hold personal or real estate and dispose of the same at pleasure, and do all other acts and things necessary for the promotion of education and the general interests of such academy. ^{When corporation may adopt name.}

SEC. 8. Any college, university or academy, now instituted, may come under the provisions of this act by complying with the requisitions herein contained, and all such institutions now in existence or that may hereafter be established, may connect therewith to be used as a part of their course of education any mechanical shops, or machinery or lands for agricultural purposes, not exceeding three hundred acres, to which may be attached all necessary buildings for carrying on the mechanical or agricultural purposes of such institution. ^{Corporations now instituted may come under provisions of this act.}

SEC. 9. Any company which may be formed in pursuance of this act, or which may now exist by virtue of any special act of incorporation, the property of which is held as stock and not derived by donation, gift, devise, or gratuitous subscription, may increase its capital stock or change it into scholarships, when it becomes necessary, for the purpose of carrying out the object for which such company or corporation is formed, in the following manner: the directors, for the time being, shall make out and sign a certificate in which they shall set forth the amount to which such capital stock is to be increased, and the object, which certificate shall be deposited in the office of the county clerk of the proper county, and be by him recorded in the same manner as the articles of association and corporate name are required by this act to be recorded. ^{Capital stock may be increased—how.}

SEC. 10. Before the capital stock of such company shall be increased, it shall be the duty of the directors to publish notice, signed by at least a majority of them, in a ^{Notice to be published.}

newspaper of general circulation, in the county in which such institution is located, at least four consecutive weeks, appointing a time and place for holding a meeting of the stockholders of the said company, specifying the amount to which it is proposed to increase the capital stock thereof, and a vote of at least two-thirds of the shares of the stock represented at such meeting, shall be necessary to an increase of its capital stock and to authorize the directors to make and sign the certificate mentioned in the preceding section.

Stockholders individually liable in certain cases.

SEC. 11. Any university, college, or academy that may become a body corporate, under the provisions of this act, the property of which is not derived by donation, gift, devise or subscription, but is owned by individuals in the shape of stock subscribed or taken, the owners of said stock shall be individually liable for the debts of said corporation to the amount of their said stock respectively, and also in a sum equal thereto, over and above the amount of their said stock; *Provided*, that the trustees or directors of any corporation organized under the provisions of this act, the property of which is not owned by individuals in the shape of stock subscribed or taken, but is held upon trust or derived by devise, donation, gift, or subscription shall not contract any indebtedness beyond the actual means or assets of said corporation, and if said trustees or directors contract debts or incur liabilities beyond the actual means or assets of said corporation, the trustees or directors so contracting shall be held liable in their individual capacity for the payment of the same, but the property of said corporation shall first be exhausted.

Trustees of college endowment fund—how created, duties, etc.

SEC. 12. That whenever three or more persons shall desire to create a board of trustees, to become incorporated as the trustees of a college endowment fund, they shall do so in the following manner, to wit: whenever, at any meeting called for that purpose, the said persons at least three of whom shall be residents of this Territory, not less than three in number, as aforesaid, shall resolve to become a body politic and corporate, having a seal and corporate name, whereby they may sue and be sued in courts of justice in this Territory; they shall prepare a statement setting forth the name by which they shall be called, the amount of said fund and the manner in which and the district to which the said fund shall be applied, whether within or without this Territory, together with the name of the persons who shall act as trustees, which said statement shall be subscribed by all the persons composing said meeting, in the presence of some magistrate, or judicial officer having a seal, who shall attest the signing of the same and recorded in the office of the county clerk in the county where said meeting was held, and thereupon the persons

named in said statement as trustees, and their successors in office, shall become a body corporate and politic for the purposes in said statement named and specified, and a certified copy of said record, under the hand and seal of the county clerk of said county, shall at all times be prima facie evidence of the existence of said corporation.

SEC. 13. That in any case wherein the original statement in the twelfth section provided for, it is contemplated that the fund may be applied to any object not inconsistent with the purposes of education different from that particularly specified in said statement, the trustees above named, or their successors in office, may apply to the district court in the county where the record hereinbefore provided for was made for the privilege to make such change, designating particularly the purposes to which it is proposed to apply the same; and the said court, on being satisfied that such change is not inconsistent with the object of the original creation and institution of said fund, shall authorize and sanction such change.

SEC. 14. That the said board of trustees and their successors in office, shall be a body politic with perpetual succession, and they shall hold their offices for such terms and receive their appointments in such manner as shall be designated in the statement on record in the office of the county clerk, as hereinbefore provided by the twelfth section of this act.

BRIDGE COMPANIES.

SEC. 15. That whenever any number of persons, as ^{Bridge companies—how formed.} named in the first section of this act, associate themselves together for the purpose of constructing a bridge over any of the streams of water in this Territory, they shall, under their hands and seals make a certificate specifying the amount of capital stock necessary, the amount of each share, the place where such bridge is to be built, and on what stream, and said certificates shall be acknowledged, certified, and forwarded to the Secretary of the Territory and by him recorded and copied; and when so incorporated, they are hereby authorized to carry on the operations named in said certificate of corporation, and by the name and style provided in such certificate, shall be deemed a body corporate with succession, and they and their associates, successors, and assigns shall have the same general corporate powers and be subject to all restrictions hereafter provided, but in all cases the banks on both sides of the stream, where the said bridge is to be erected, shall be owned by said company, or that they obtain in writing the consent of the owner or owners of the banks where the said bridge is to be erected, to erect the said bridge as

aforesaid, unless the said banks at such point shall be in a public highway.

Corporators to
open books—offi-
cers to be chosen

SEC. 16. That the corporators herein named shall open the books of said company for subscription to the capital stock of said bridge, and so soon thereafter as ten per cent. of the capital shall be subscribed, they shall call a meeting of the persons who have subscribed stock as aforesaid, and shall then and there proceed to elect five directors, who shall be stockholders in the said company, who shall hold their offices as such directors for one year from and after said election and until their successors are elected and qualified, one of whom shall be president and one treasurer and one secretary, to be named on the tickets when voted for by the stockholders as aforesaid, each stockholder shall be entitled to one vote for each and every share of stock he may own, and after the first election no stockholder shall be entitled to greater number of votes than the number of shares he may have paid into the said company.

Treasurer to
give bond, etc.

SEC. 17. That the treasurer of said company before entering upon his duties of office, shall enter into a bond with good and sufficient security, to be approved of by said board of directors, payable to the said company, conditioned for the faithful performance of all and singular the duties of his said office, and that he will well and truly account for and pay over to the said company all monies and property that shall, from time to time, come into his hands by virtue of his said office, and that he will use due and proper diligence to collect all monies and demands that from time to time shall be due and owing to the said company, which shall be his duty by law to collect.

Duties of Presi-
dent.

SEC. 18. The president shall preside at all meeting when present and not otherwise incapacitated, in which case or in case of his absence, the board of directors shall choose a president from among their number, who shall perform the duties of the president at such meeting and perform such duties as may from time to time be pointed out by the by-laws and rules of said company.

Duties of Secre-
tary.

SEC. 19. The secretary shall keep a record of all meetings of the board of directors and other proceedings of said company, not required to be performed by any other officers of the said board of directors, and perform such other and further duties as may be assigned him from time to time by the rules and by-laws of the said company.

Company may
make and
change by-laws.

SEC. 20. That the said company shall have power from time to time, at any regular meeting of the board of directors, to make, alter, and change such by-laws and rules for the government of the said company.

Rates of toll to
be set up.

SEC. 21. That the company previous to receiving any tolls upon said bridge, shall set up and keep in a conspicuous place, on a board on the said bridge, on which shall be

written, painted or printed, in a plain and legible manner, the rates of toll, which rates of tolls shall have been prescribed by the district court of the proper county; and if any company shall demand or receive any greater rates of toll than the rate prescribed by said court, they shall be subject to a fine of ten dollars for each offence.

District Court to fix rates of toll.

SEC. 22. That the compensation of the president and other officers of such company, shall be regulated and fixed by the rules and by-laws of such company from time to time.

Compensation of officers.

MANUFACTURING COMPANIES.

SEC. 23. That whenever any number of persons associate themselves together for the purpose of engaging in the business of manufacturing, they shall, under their hands and seals, make a certificate specifying the amount of capital stock necessary, the amount of each share, the name of the place where such manufacturing establishment shall be located, the name and style by which such company shall be known; said certificate shall be acknowledged, certified and forwarded to the secretary of the Territory, recorded and copied, and when so incorporated, they are hereby authorized to carry on the manufacturing operations named in said certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate with succession, and they and their associate successors and assigns shall have the same general corporate powers as are provided in this act, and subject to all the restrictions hereafter provided.

Manufacturing companies—how formed.

SEC. 24. The annual meeting of the stockholders shall be held on the first Monday of January in each year, at which meeting the directors of the Company shall be elected, and such other lawful business done as the stockholders shall deem necessary and proper, and should they fail to elect directors at the annual meeting, they shall hold a special meeting at some subsequent time for that purpose, by giving thirty days notice thereof in some newspaper of general circulation in such county; the directors shall hold their offices until their successors are chosen and qualified, but no person shall be a director after ceasing to be a stockholder; immediately after the election, the directors shall elect one of their number president of the corporation, and may appoint such other officers and agents as they may deem proper to transact their business, and prescribe the amount of compensation to be allowed them for their services, and such officers, when required by the by-laws, shall give bonds to the satisfaction of the directors, for the faithful discharge of the trusts committed to them, shall have power and are hereby authorized to make such rules, regu-

Annual meetings, 1st Monday in January. Directors to be chosen. Duties of officers. General powers of corporation, &c.

lations and by-laws as may be necessary for their regulation, not inconsistent with the organic act of this Territory. The directors shall have the general management of the affairs of the company, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the stockholders for the time being may prescribe, and may employ the capital and means of the company in such manufactures as they shall deem best for the company, and for the erection and maintenance of such machinery, dams, buildings, races and watercourses, subject always to the control of the stockholders, as may be necessary in the business of manufacturing, but for no other purpose than those connected with and pertaining to said business; they shall cause a record to be kept of all stock subscribed and transferred, and all business transactions, and their books and records shall at all reasonable times be open to the inspection of any and every stockholder; they shall also, when required, present to the stockholders, reports in writing of the situation, and the amount of business of the company, and declare and make such dividends of the profits from the business of the company, not reducing the capital stock while they have outstanding liabilities, as they shall deem expedient.

Commissioners
to have power to
open books.

SEC. 25. The persons named in the certificate of incorporation or a majority of them, shall be commissioners to open the books for the subscription to the capital stock of said company, and at such times and places as they shall deem proper, and the said company are authorized to commence operations upon the subscription of ten per cent. of said stock.

RELIGIOUS AND OTHER SOCIETIES.

Religious and
other societies—
how organized.

SEC. 26. That from and after the passage of this act, it shall be lawful for any religious sect or denomination, fire company, or any literary, scientific or benevolent association (other than colleges, universities, academies or seminaries,) within this Territory, to elect, at a meeting of a majority of the members of any organized church, fire company, literary, scientific or benevolent association as aforesaid, called for that purpose, any number of their members, not less than three, to serve as trustees or directors, and one member as clerk, who shall hold their offices during the pleasure of the society or association.

Proceedings of
meeting for or-
ganization to be
recorded by
county clerk—
fees for same.

SEC. 27. That the clerk so appointed shall make a true record of the proceeding of the meeting provided for in this act, certify and deliver the same to the clerk of the county where such meeting shall be held, together with the name by which such church, fire company or association shall thereafter desire to be known; and it shall be the

duty of each county clerk in this Territory, immediately upon the receipt of such certified statement, to record the same in a book of record to be kept by him, provided for that purpose at the expense of his county, for which service he may demand the sum of ten cents per hundred words, and from and after making such record by the county clerk, the said trustees or directors, and their associated members and their successors, shall be invested with the powers, privileges and immunities incident to aggregate corporations, and a certified transcript of the record herein authorized to be made by the county clerk, shall be deemed and taken in all courts and places whatsoever in this Territory, as prima facie evidence of the existence of such association and corporation.

SEC. 28. The trustees or directors, who may be appointed under the provisions of this act, and their successors in office, shall have perpetual succession by such name as may be designated, and by such name be legally capable of contracting, and prosecuting and defending suits, and shall have capacity to acquire, hold, enjoy, dispose of and convey all property, real and personal, which they may acquire by purchase, donation or otherwise, for the purpose of carrying out the intentions of such society or association, but they shall not acquire or hold property for any other purpose.

Trustees to have perpetual succession, &c.

SEC. 29. That such society or association, when incorporated, may elect such officers and make such rules and regulations as may be necessary and expedient for its own government, and the management of its fiscal and other affairs to effect their respective objects.

Officers may be elected—by-laws adopted, &c.

SEC. 30. That if said board of trustees or directors, as is provided for in the twenty-sixth section of this act, shall be vacated either by whole or in part, by death, resignation or otherwise, such board of trustees or directors may be revived, or such vacancy or vacancies filled, in the manner pointed out in twenty-sixth section of this act for the original organization of said board, and a majority of said trustees or directors shall be a quorum for the transaction of business.

Vacancies in board of trustees—how filled.

CEMETERIES.

SEC. 31. That from and after the passage of this act, it shall be lawful for any number of persons, not less than five, who are residents of the county in which they desire to form themselves into an association, to form themselves into a cemetery association, and to elect any number of their members, not less than three, to serve as trustees, and one member as clerk, who shall continue in office during the pleasure of the society; all such elections shall take

Cemetery association—how incorporated.

place at a meeting of a majority of the members of such associations, and after notice, for at least twenty days in a newspaper, or by posting at least three written notices at public places in the township.

Proceedings of
meeting to be
recorded, &c.

SEC. 32. That the clerk, hereinbefore authorized to be appointed, shall forthwith make out a true record of the proceeding of the meeting provided for by the thirty-first section of this act, certify and deliver the same to the clerk of the county in which such meeting shall be held, together with the name by which such association shall desire to be known; and it shall be the duty of each county clerk in this Territory, immediately upon the receipt of such certified statement, to record the same in a book by him provided for that purpose, at the expense of the county; and the clerk shall be entitled to the same fees for his services as he is entitled to demand for other similar services, and from and after making of such record by the county clerk, the said trustees, and their associated members and successors, shall be invested with the powers and privileges and immunities incident to aggregate corporations; and a certified transcript of the record herein authorized to be made by the county clerk, shall be deemed and taken in all courts and places whatsoever within this Territory, as prima facie evidence of the existence of such cemetery association.

Trustees to have
perpetual suc-
cession.

SEC. 33. That the trustees who may be appointed under the provisions of the thirty-first section of this act, shall have perpetual succession, and shall be capable in law of contracting and prosecuting and defending suits at law and in equity, and where suits shall be brought against said incorporation, mesne process against it may be served by leaving an attested copy thereof with one of the trustees, at least ten days before the return day thereof.

Powers of the
association.

SEC. 34. All such associations may have power to prescribe the terms on which members may be admitted, the number of its trustees and other officers (subject to the limitation set forth in the thirty-first section of this act), and the time and manner of their election and appointment, and the time and place of meeting for the trustees and for the association, and to pass all such other by-laws as may be necessary for the good government of such association, not inconsistent with this or any other statute of the Territory, nor in violation of the organic act.

May hold real
estate for ceme-
tery purposes.

SEC. 35. Such association shall be authorized to purchase or take, by gift or devise, and hold land exempt from execution and from any appropriation to public purposes, for the sole purpose of a cemetery, not exceeding one hundred acres, which shall be exempt from taxation if used exclusively for burial purposes; and in no wise with a view to profit after paying for such land, all the future receipts

and income of such association, whether from the sale of lots, from donation or otherwise, shall be applied exclusively to laying out, protecting, preserving and embellishing the cemetery and the avenues leading thereto, and to the erection of such building or buildings as may be necessary for the cemetery purposes, and to paying the necessary expenses of the association. No debts shall be contracted in anticipation of future receipts excepts for originally purchasing, laying out, inclosing and embellishing the grounds and avenues for which a debt or debts may be contracted, not exceeding one thousand dollars in the whole, to be paid out of future receipts; and such association shall have power to adopt such rules and regulations as they deem expedient for disposing of and conveying burial lots.

SEC. 36. Burial lots sold by such association shall be for the sole purpose of interments, and shall be subject to the rules prescribed by the association and shall be exempt from taxation, executions, attachment, or any other claim, lien, or process whatever, if used exclusively for burial purposes and no wise with a view to profit.

Burial lots exempt from taxation.

SEC. 37. All such associations shall cause a plat of their grounds and of the lots by them laid out to be made and recorded, such lots to be numbered by regular consecutive numbers, and shall have power to enclose, improve and adorn the grounds and avenues, and erect buildings for the use of the association, and to prescribe rules for the enclosing and adorning lots, and for erecting monuments in the cemetery, and to prohibit any use, division, improvement or adornment of a lot which they may deem improper, and an annual exhibit shall be made of the affairs of the association.

Plat of grounds to be made and recorded.

SEC. 38. Any persons who shall willfully destroy, mutilate, deface, injure or remove any tomb, monument or grave stone, or other structure placed in any cemetery, or any fence railing or other work for the protection or ornament of a cemetery, or tomb, monument or grave stone, or other structure aforesaid, or of any cemetery lot within a cemetery, or shall willfully destroy, cut, break or injure any tree, shrub or plant, within the limits of a cemetery, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof before any court of competent jurisdiction, be punished by a fine of not less than five dollars, nor more than five hundred dollars, and by imprisonment in the county jail for a term of not less than one nor more than thirty days, according to the nature and aggravation of the offence, and such offenders shall also be liable to an action of trespass in the name of the association to pay all such damages as have been occasioned by his unlawful act or acts, which money when recovered, shall be applied to the reparation and restoration of the property destroyed

Mutilating cemetery grounds or property—Penalty.

-or injured as above, and in all prosecutions and suits under this act, members of said association shall be competent witnesses.

Cemetery grounds not subject to sale or execution.

SEC. 39. That lands appropriated and set apart as burial grounds, either for public or private use, and so recorded in the register's office of the county where such lands are situated, shall not be subject to sale or execution on any judgment to be hereafter recovered, to taxation, to dower, nor to compulsory partition.

GENERAL PROVISIONS.

Companies now incorporated may accept provisions of this act.

SEC. 40. All companies now incorporated in this Territory, and actually doing business, may accept any of the provisions of this act, and when so accepted, and a certified copy of their acceptance filed with the secretary of the Territory, that portion of their charters inconsistent with the provisions of this act is hereby repealed.

Annual exhibit to be published.

SEC. 41. All companies hereafter incorporated or accepting the provisions of this act, except those named in the twenty-sixth section, are required to make and publish in some newspaper of general circulation in the county where the principal office is located, an annual exhibit showing a full, fair and detailed statement of the condition of such company, which statement shall be verified by the oath of the president, secretary and clerk.

Each company to employ its means for the objects of its incorporation.

SEC. 42. No company or association incorporated under the provisions of this act, shall employ its stock, means, assets or other property, directly or indirectly for any other purpose whatever than to accomplish the legitimate object of its creation.

Capital stock may be reduced.

SEC. 43. That the board of directors or trustees of any company heretofore incorporated, or which may hereafter be formed under any law of this Territory, may with the written consent of the persons in whose name a majority of the shares of the capital stock thereof shall stand on the books of said company, reduce the amount of the said capital stock, and the nominal value of all the shares thereof, and issue certificates therefor, provided that the rights of creditors shall not be affected, or in any wise impaired by the reduction of the capital stock of any such corporation.

Companies created to erect improvements may have further time if work is in progress.

SEC. 44. That whenever any joint stock company hereafter incorporated for the purpose of erecting any public improvement in this Territory, whose charter may be limited, as to the time of completion of said improvement, and when any such company has been legally organized, and has actually commenced, and has in progress toward completion, such public improvement, it shall be lawful for any such company to have further time allowed for the final completion of said work as is hereinafter provided.

SEC. 45. That upon petition being filed by the directors of any corporation in the district court of the county in which the principal office of such corporation is located, and upon giving thirty day's notice, by publication in a newspaper of general circulation in said county, of the object and prayer of such petition, said court shall at any regular term after the publication of said notice, upon good cause shown, decree the extension of the time for the completion of said improvement, to such period as shall appear to such court just and reasonable.

Extension of time, how and by whom granted.

SEC. 46. All officers of any such incorporated companies organized under the provisions of this act, shall be residents of this Territory, and whenever any company, association or society, heretofore or hereafter incorporated, shall have failed to elect its officers at the time designated, it shall be lawful for any such company, association or society, to call a meeting and elect its officers, who shall hold their respective offices until the time specified for the annual or other fixed time for holding such election; and when any incorporated company heretofore organized, or that may hereafter be organized under the provisions of this act, shall have a specified time fixed for its annual meeting, a majority of the stockholders in interest, may at any regular annual meeting, change the time of the annual meeting thereof.

All officers to be residents of this Territory, &c.

SEC. 47. That when any real estate shall have been or may hereafter be bequeathed, purchased, donated or otherwise be entrusted to any religious society in this Territory, or to any of the trustees or officers of any such society, or for any other purpose, and such society shall be desirous to sell, exchange or encumber by mortgage, or otherwise, any such real estate, it shall be lawful for the district court of the proper county, upon good cause shown upon petition of any such society, or some person authorized by them, to make an order authorizing the sale or encumbrance of any such real estate, and said court may include in such order, directions how the proceeds of such sale or incumbrance shall be appropriated or invested, provided such order shall in no case be inconsistent with the original terms upon which such real estate became invested in, or entrusted to such religious society.

Real estate—how sold and incumbered by trustees—Order to be made by district court.

SEC. 48. That when any religious society shall petition as is provided for in the preceding section, all persons who may have a vested, contingent or reversionary interest in the real estate sought to be sold or incumbered, shall be made parties to said petition, and such parties shall be notified of such petition in the same manner as is, or may be provided for in cases of petitions for partitions of real estate, *Provided*, that the provisions of this act shall not extend to any grounds, used or occupied as burial places for the dead.

Petition to be filed by society.

Affairs of dissolved corporations—how settled.

SEC. 49. Upon the dissolution, by the expiration of the term of its charter or otherwise, of any corporation now existing, or hereafter created, and unless other persons be appointed by the legislature, or by some court of competent authority, the directors or managers of the affairs of such corporations, acting last before the time of its dissolution, by whatever name they may be known in law, and the survivors of them shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the same, collect and pay the out standing debts, and divide among the stockholders the moneys and property that shall remain, in proportion to the stock of each stockholder paid up, after the payment of debts and necessary expenses; and the persons so constituted trustees, shall have authority to sue for and recover the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation, to the extent of its property and effects that shall come into their hands, and no suit against any such corporation shall abate in consequence of such dissolution, and said trustees may be made parties thereto by scire facias and all liens of judgments and decrees of any courts of chancery, existing at the time of such dissolution, either in favor or against such corporation, shall continue in force in the same manner as if such dissolution had not taken place; *Provided*, that in case of the death, resignation, inability or refusal to act, of the directors or managers aforesaid, or the survivors thereof, the district court of the proper county may, on the application of any persons interested, appoint trustees to fill the vacancy, with full power to perform the duties aforesaid.

Suits against corporation not to abate by reason of expiration of charter, &c.

SEC. 50. That no suit or action, either at law or in chancery, pending in any court in favor or against any banking or other corporation, shall be discontinued or abate by the dissolution of such corporation, whether such dissolution occur by the expiration of its charter or otherwise; but all such suits or actions may in all courts of justice, be prosecuted by the creditors, assigns, receivers or trustees, having the legal charge of the assets of such dissolved corporation, to final judgment or decree, in the corporate name of such dissolved corporation.

Judgments or decrees to be enforced after corporation has dissolved.

SEC. 51. That upon all judgments and decrees in favor or against any such corporation, whether such judgments or decrees exist at the time of the dissolution of such corporations, or are obtained afterwards in suits or actions pending at the time of such dissolution, execution may be had, and satisfaction or performance of the same be

enforced by the creditors, assigns, receivers or trustees having the legal charge of the assets of such dissolved corporation, in the corporate name of such dissolved corporation.

SEC. 52. That the title of all real estate belonging to any such corporation, shall at the time of the dissolution of the same, pass to the trustees of such corporation, who shall have full power and authority to sell and dispose of any such real estate, in such manner and upon such terms as may be thought best for the interest of the creditors and stockholders, and upon any such sale to make a good and sufficient title therefor.

Title of real estate of dissolved corporation to pass to trustees.

SEC. 53. That the trustees of any such dissolved corporation, shall be subject to the control of the court of chancery and be liable to be sued by petition in chancery, on behalf of any person interested on account of any neglect or omission of duty, or abuse of trust, and in case of the removal of any such trustee by such court for an abuse of trust, such court shall have the power and authority to appoint a suitable person to fill the vacancy, and any such trustee may for reasonable cause, upon the application of any creditor or stockholder, be required by the district court to give bond and security in such amount and subject to such conditions as the court may direct.

Trustee to be subject to control of court of chancery.

SEC. 54. That any corporation created by this act, may at any time after its dissolution, whether such dissolution occur by the expiration of its charter or otherwise, prosecute any suit at law or in equity, in and by the corporate name of such dissolved corporation, for the use of the party entitled to receive the proceeds of any such suit, upon any and all causes of action accrued, or which, but for such dissolution, would have accrued in favor of such corporation, in the same manner and with the like effect as if such corporation were not dissolved.

Dissolved corporations may prosecute suits

SEC. 55. Any such dissolved corporation may be sued at law or in equity, in and by its corporate name, for or upon any cause of action accrued, or which but for such dissolution would have accrued against such corporation in the same manner and with the like effect as if such corporation were not dissolved, and all process by which any suit either at law or in equity, may be instituted against any such dissolved corporation, may be served by the sheriff or any other proper officer by delivering to any one of the assignees, trustees, receivers or persons having charge of the assets of such dissolved corporation, a copy thereof, or by leaving such copy at the residence of any such assignee, trustee, receiver or person having charge of such assets.

Dissolved corporations may be sued in corporate name.

SEC. 56. Judgments and decrees, in favor or against any such dissolved corporation, whether such judgments

Judgments or
decrees—how re-
vived.

and decrees were rendered before or after such dissolution, and which have heretofore, or may at any time hereafter become dormant, may be revived in favor of, or against such dissolved corporation, as the case may be, in and by the corporate name of such dissolved corporation, in the same manner and with the like effect as if such corporation were not dissolved, and in all cases of judgments or decrees against any such corporations, the writ of scire facias or other proper process shall be served in the manner prescribed in the fifty-fifth section of this act, for the process in suits against dissolved corporations.

Writs of error—
bills of review,
&c.

SEC. 57. Writs of error upon judgments at law may be sued out, and bills of review in chancery may be exhibited in favor of or against any such dissolved corporation, and by its corporate name in the same manner and with the like effect as if such corporation were not dissolved, and process thereon against any such dissolved corporation, shall be served in the manner as prescribed in the fifty-fifth section of this act.

This act not to
be construed to
revive bank
charter, except
&c.

SEC. 58. Nothing in this act contained shall at any time be construed as extending or reviving the charter of any banking or other corporation dissolved either by affluxion of time, or otherwise, for any other purpose than that of judicial proceedings, in favor of or against the same.

SEC. 59. All acts and parts of acts, so far as the same are inconsistent with this act, be and the same are hereby repealed, *Provided*, that the provisions of this act shall not in any manner affect any corporation now in existence, only so far as such corporations may hereafter accept the provisions of this act.

SEC. 60. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Provide for Elections.

General election
second Tuesday
in October—

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the general elections of this Territory shall be held on the second Tuesday of October of each year.

What officers
chosen

SEC. 2. A delegate to Congress and members of the Council shall be elected at the general election in the year 1864, and every second year thereafter; members of the House of Representatives shall be elected annually at the said general election; one Territorial auditor and one Terri-

torial treasurer shall be elected at the general election in the year 1865, and every two years thereafter; one county commissioner for each county shall be elected annually at the general election, who shall serve for the term of three years; one probate judge, one sheriff, one coroner, one county treasurer, one county clerk, one county surveyor, and one prosecuting attorney for each county, and for each precinct two justices of the peace and two constables shall be elected at the general election in the year 1865, and every two years thereafter; one assessor, three judges of election, and two clerks of election shall be elected at the general election in the year 1864, and annually thereafter.

SEC. 3. The several county commissioners shall, at least thirty days previous to any general election, cause three written or printed notices thereof to be posted up in each election precinct, containing a list of all the offices to be balloted for at said election; and in case of a special election, such notices shall be given at least eight days prior thereto. The said notices shall be as nearly as circumstances will admit, in form following:

County commis-
sioners to give
notice

Form.

"Notice is hereby given, that on Tuesday, _____ day of October next, at the house of _____, in _____, an election will be held for delegate to Congress, one Councilman, &c., (*naming all the officers to be balloted for,*) which election will be opened at nine o'clock in the morning, and will continue open until six o'clock in the afternoon of the same day.

By order of the county commissioners, this _____ day of _____, A. D. 18—.

A. B., County Clerk."

SEC. 4. The polls at all general elections shall be opened at nine o'clock in the morning, and close at six o'clock in the afternoon of the same day.

Opening and
closing of polls.

SEC. 5. Each judge and clerk of election provided for in section one of this act shall, within sixty days next after his election, present himself at the office of the county clerk, or any justice of the peace or other person authorized to administer oaths within the county, and take and subscribe an oath, in manner following:

Judges and
clerks to qualify;
form of oath.

"I (A. B.) do solemnly swear that I am a citizen of the United States, (*or have declared my intention to become a citizen of the United States,*) that I have been an inhabitant of the Territory of Nebraska for the last six months, and of the county of _____ for the last twenty days, and of my precinct for the last ten days, and have attained the age of twenty-one years, to the best of my knowledge and belief, that I will support the Constitution of the United States and the Organic Act of this Territory, that I have not,

either directly or indirectly, given and will not give any aid whatsoever to any rebellion or insurrection against the government of the United States, and that I will faithfully and impartially perform the duties of the office of Judge (or Clerk) of election for ——— precinct, ——— county, according to law and the best of my ability," which oath or affirmation may be administered by the county clerk, and by him shall be placed on file in his office.

Candidates not eligible as judges or clerks.

SEC. 6. No person who is a candidate for election to any Territorial or county office, at any general election, shall be competent to act as judge or clerk at such election.

Vacancies— how filled.

SEC. 7. If any person or persons elected judge or clerk of election, under the provisions of this act, shall, by reason of death, resignation or otherwise become incapacitated to serve at any general election, or shall remove from the precinct, the county clerk shall appoint some qualified elector of the proper precinct to fill such vacancy, who shall, upon notice of his appointment by said county clerk, present himself at the office of the said county clerk and take and subscribe the oath or affirmation prescribed in section five of this act; but in case such person so appointed as aforesaid shall not qualify as aforesaid, or in case any person elected judge or clerk of election who shall be qualified and shall not attend at the time and place of holding such general election, then the electors present at such election, shall at nine o'clock in the morning of the day of holding such election, proceed, viva voce, to fill such vacancy or vacancies, and the person or persons thus chosen shall take and subscribe the oath described in section five, which oath or affirmation may be administered by either of the regular judges or clerks of election, or by any person duly authorized to administer oaths, and shall be returned with the poll books to the county clerk, and there placed on file.

Duties of judges and clerks.

SEC. 8. On the morning of the general election, the aforesaid judges and clerks shall proceed to the place of holding elections, and in the presence of the electors present, immediately before the opening of the polls, shall open the ballot box for inspection, and see that no ballots are therein contained, after which said box shall be again closed, and one of the judges shall make proclamation that the polls of that election are open, and they shall proceed immediately to take such ballots as may be offered them in accordance with the laws of this Territory, and without examining the same, shall immediately deposit them in the ballot box.

Poll books — form.

SEC. 9. The clerks of election, previous to the opening of the polls, shall prepare duplicate poll books, in the manner and form following:

"Poll books of an election held in _____ precinct, in _____ county, on the _____ day of _____ A. D. 18—, at which time and place A. B., C. D. and E. F. were judges, and G. H. and J. K. were clerks of said election—the following named persons voting thereat : ✓

1 A. B.

2 C. D.

3 E. F. &c., &c.

We do hereby certify, that the above is a true list of the persons voting at the above named election.

Attest:

G. H.

J. K.

Clerks.

A. B.

C. D.

E. F.

Judges of Election."

And each clerk shall take one of said duplicates, and enter thereon the name of each person voting, immediately after his vote shall be deposited in the ballot box; and immediately after the close of the election, the above certificate, signed as therein specified, shall be appended to each duplicate poll book.

SEC. 10. One of the judges of election shall receive each ballot from the person offering to vote, at the same time announcing the name of such person in a clear, distinct voice, and, if the judge shall be satisfied the person offering to vote is a legal voter, his ticket shall be placed in the ballot box without inspecting the names written or printed thereon, and the clerks of election shall enter the name of the voter and the number in the poll book, agreeably to the form pointed out in the ninth section of this act; and it shall be the duty of the judges to cause to be placed on each ballot the number corresponding with the number of the voter offering the same, and the said ballots after being counted shall be sealed up in a package, and delivered to the county clerk, who shall deposit the same ballots in his office where they shall be safely kept for twelve months, and the county clerks shall not allow the same to be inspected, unless in cases of contested elections, or the same become necessary to be used in evidence in the courts, and no judge or clerk of an election shall disclose the names of a candidate voted for by any voter under the penalty of a fine of one hundred dollars, to be collected before a justice of the peace in the township where said judges and clerks reside, and said fines shall be paid into the common school fund belonging to the county.

Receiving ballots—duties of Judges and clerks.

SEC. 11. It shall be the duty of each judge and clerk of election to challenge the vote of every person offering to vote, whom he shall know or suspect not to be duly qualified as an elector.

Judge and clerk to challenge in certain cases.

SEC. 12. The judges of election shall, if requested, per-

Candidates and their friends may be present when votes are counted.

Judges have power to maintain and enforce order.

mit the respective candidates, and their friends not exceeding in number two, to be present in the room during the time of receiving and counting out the ballots.

SEC. 13. The said judges shall possess full power and authority to maintain due regularity and order during any election, or the canvass of the votes after closing the polls; and in order to maintain the same, they are hereby empowered to call upon the sheriff, or any constable of the county, or to appoint some competent person who shall carry out the orders of the said board of judges, and he may, by virtue of an order specifying the offence, duly made in writing and signed by them, or a majority of them, arrest any person for disorderly or boisterous conduct, or for a violation of the election laws of this territory, and confine such person within the common jail of the county, or in some secure place, during such time as said order may specify, not exceeding twenty-four hours, which said order shall be in manner and form following:

TERRITORY OF NEBRASKA, }
COUNTY, } ss.

To the sheriff, or any constable of said county, (or to A. B.)

Whereas, C. D. has been guilty of (here name the offense.) You are, therefore, commanded to arrest the said C. D. and convey him to the common jail of the said county of ——— and there confine him for the period of ——— hours, or until he may be otherwise discharged by due process of law.

E. F.
G. H.
J. K.

Judges of Election."

But such order shall not prohibit the person so arrested (if of sane mind,) from voting at such election.

Ballot-box to be kept in view.

SEC. 14. After the polls are opened on the morning of the election, the ballot box shall not be removed from the view of the electors present until the polls are closed, and all of the votes shall have been counted and canvassed; nor shall two of the judges be absent from the room or building in which the election is held, at the same time, during such voting and canvassing; and at the opening of the polls the ballot box shall be locked, and shall not be again unlocked until after the time of closing the polls.

Counting to commence when polls are closed.

SEC. 15. Immediately after closing the polls the judges shall commence to count and canvass the votes, one of the judges taking them singly from the box, and reading with a clear and distinct voice the name of each person voted for on such ballot, with the office such person is designed to fill; and one of the other judges shall look over and

inspect each ballot during the reading thereof, and immediately thereafter it shall be handed to the third, who shall place it in its order on a string provided for that purpose.

SEC. 16. During the canvassing of the votes, each of the clerks shall keep a tally list, having thereon the names of the different offices to be filled, and the names of each person voted for in connection with each office; and as each name is announced by the judge, they shall place opposite such name on their tally list a distinct mark, in such manner as that the same shall be conveniently counted. Tally lists to be kept by clerks.

SEC. 17. Whenever the judges of election shall find two or more ballots rolled or folded together, they shall reject the whole of such votes as fraudulent; and whenever a ballot shall contain a greater number of names for any one office than the number of persons required to fill that office, it shall be deemed fraudulent as to the whole of the names for that office, but no further; and no ballot shall be deemed fraudulent because it contains a less number of names than are authorized to be inserted. Fraudulent ballots to be rejected.

SEC. 18. When all the votes shall have been examined and counted, the clerks shall set down on their tally list, or on some paper attached thereto, the name of every person voted for written at full length, the office for which such person received such vote or votes, and the number of votes he received, which number shall be expressed in words at full length; such entry to be made in the following manner and form as nearly as may be: Certificate after votes are counted.

"At an election held in ——— precinct in ——— County, and Territory of Nebraska, on the ——— day of ——— 18—, the following named persons received the number of votes annexed to the names for the following described offices:

A. B. had one hundred votes for Delegate to Congress.

C. D. had sixty votes for Delegate to Congress.

E. F. had eighty votes for Territorial Treasurer.

G. H. had sixty votes for Territorial Treasurer.

J. K. had eighty votes for County Commissioner.

(And in the same manner for all persons voted for).

Certified by us this ——— day of ——— A. D. 18—.

Attest:

G. H.

J. K.

Clerks.

A. B.

C. D.

E. F.

Judges of Election."

SEC. 19. The judges of election shall then inclose one of the poll books and tally lists full and complete in an envelope or cover, and seal the same and direct the same to the county clerk of the county in which the election is Returns to be sealed up and returned to county clerk by one of the judges, within four days.

held, and the packet thus sealed shall be conveyed to the said county clerk by one of the judges or clerks of election, within four days from the close of the polls; and the other poll books and tally list shall be deposited with one of said judges, to be appointed by the said judges and clerks of election to receive the same, and the same shall be subject to the inspection of any elector who may wish to examine the same during the period of six months after such election shall have been held.

Judge to retain possession of ballot box.

SEC. 20. The ballot box at the close of each election, shall be deposited with the judge of election, appointed as aforesaid, who shall take charge of the same and be responsible for its safe keeping; and he shall convey said ballot box or cause it to be conveyed to the place of holding elections in his precinct, at the next general or special election, and deliver or cause the same to be delivered to one of the judges of said election. The county commissioners of each county are hereby required to furnish each precinct with a substantial ballot box, unless such an one has already been furnished.

County clerk and two householders to canvass votes within six days after reception.

SEC. 21. Upon the reception of the returns of each election precinct by the county clerk, directed to him as hereinbefore provided, and within six days from the closing of the polls, he, together with two disinterested householders of the county, to be chosen by him, shall open said returns and make complete abstracts of the votes cast for each several office at said election.

Shall make abstract, declare who is elected, and issue certificates.

SEC. 22. After such abstract is made and the votes counted and compared, the person or persons having the highest number of votes for each of the offices of member of the council, member of the house of representatives, county commissioner, probate judge, sheriff, coroner, county treasurer, county clerk, county surveyor, prosecuting attorney, justices of the peace, constables, assessors, judges of election and clerks of election voted for at such election, shall be declared duly elected, and the county clerk shall issue a certificate accordingly.

Abstracts of votes for delegate in congress and territorial officers.

SEC. 23. The county clerks of the several counties of this Territory, shall, within the time prescribed in section twenty-one, make further abstracts of the votes cast at any election for delegate to congress, territorial auditor and territorial treasurer; and also separate abstracts for the votes cast at any election for members of the council and house of representatives, and transmit said two several abstracts by mail or otherwise to the secretary of this Territory.

Governor, secretary and auditor shall canvass votes for delegate, &c.

SEC. 24. Within ten days after the reception of said abstracts, the said secretary shall, in the presence of, and with the concurrence of the governor and auditor of this Territory, proceed to cast up the votes given in the several

counties for delegate to congress, territorial auditor and territorial treasurer, and shall give to the person or persons having the highest number of votes certificates of election.

SEC. 25. Should the governor or auditor be absent from the Territory or unable to serve, then the secretary shall call in the chief justice or one of the associate justices of this Territory, to fill such vacancy or vacancies.

SEC. 26. The said several abstracts so transmitted to and received by the secretary, shall, by him, be placed on file in his office.

SEC. 27. In case of a vacancy by a tie vote, death, resignation or otherwise, in the office of delegate to congress, the governor shall issue his proclamation ordering a special election to fill such vacancy until the next general election of such delegate, giving at least forty days notice of the time of holding such special election; and the county commissioners of each county, upon the issuance of such proclamation by the governor, are required to post up in each election precinct of the county at least eight days prior to such election, two written or printed notices of such special election. In case of a vacancy by a tie vote, death, resignation or otherwise in the office of territorial auditor or of territorial treasurer, the governor shall, by appointment, fill such vacancy until the next annual election of said officers. In case of a vacancy by a tie, death, resignation or otherwise in the office of member of the council or house of representatives, the county commissioners shall order a special election to fill such vacancy until the next general election, and give notice thereof as is directed in section three of this act. In case of a vacancy by a tie vote, death, resignation or otherwise in any county office, except that of county commissioner, the board of county commissioners shall, by appointment, fill such vacancy until the next general election; and in case of such vacancy in the office of county commissioner, the county clerk, probate judge and prosecuting attorney shall, by appointment, fill such vacancy until the next general election.

SEC. 28. When two or more counties are embraced in one council or representative district, the clerks of the several counties in said district shall, within seven days after the day of election, transmit by mail or otherwise to the clerk of the county first named in the act creating the district, correct abstracts of all the votes cast in the several counties composing such district for councilman or representative, and the clerk of the county first named in the act creating the district, on the reception of such returns or abstracts, shall select two disinterested householders, and the three shall compare the votes given in the several counties as shown by the abstracts returned, and

If governor or auditor absent—
who to act.

Abstracts to be
filed by secretary

Vacancies by
death, resigna-
tion or tie vote—
how filled.

Returns in coun-
cil or representa-
tive districts to
be sent to county
first named in
act.

the said clerk shall make out and deliver to the person having the highest number of votes for the council or house of representatives a certificate of election, which shall be delivered to the proper person or his agent, when called for.

Who may contest elections—
manner of conducting same.

SEC. 29. Whenever any candidate or elector of any county or council or representative district chooses to contest the validity of an election, or the right of any person proclaimed duly elected to a seat in the council or house of representatives, such person shall give notice thereof, in writing, to the person whose election he intends to contest, or leave a written notice thereof at the house where such person last resided, within twenty days after the election, expressing the points on which the same will be contested, and the name of some person authorized by law to administer oaths, selected by him to take the depositions and the time and place for the taking of the same; the adverse party may also select one such person on his part to attend at the time and place of taking such depositions. The notice herein required shall be served at least ten days before the day fixed for the taking of depositions. The said two persons selected as aforesaid to take the depositions, shall proceed jointly, or in default of either one of such persons to attend at the time and place fixed upon, the one attending shall proceed to hear and reduce to writing the testimony of all witnesses who may be produced by either of said parties, and may adjourn from day to day until all said testimony is taken; and when all said testimony shall have been taken and reduced to writing, the said persons or person officiating at the taking of the same, shall certify all said testimony relative to such contested election to the presiding officer of the branch of the legislative assembly where the person whose seat is contested may be returned to serve at its next session.

Same.

SEC. 30. The persons or either of them, selected as aforesaid to hear and take depositions, shall have power and are hereby authorized to issue subpoenas to all persons whose testimony may be required by either of the parties.

No person not an elector in a councilman district, can contest election, &c.

SEC. 31. No person shall contest the election of any councilman or representative unless he is an elector of that county or district from which the person is returned to serve; and no testimony shall be received by the persons or person officiating at the taking of the depositions on the part of the contestant which does not relate to the points specified in the notice; a copy of which notice shall be delivered to the persons or person so officiating, and by them or him transmitted to the presiding officer of that branch of the legislative assembly where the contest is to be decided, with the other documents.

SEC. 32. Whenever any elector of this Territory chooses

to contest the validity of an election or the right of any person proclaimed duly elected to the office of Territorial Auditor or Territorial Treasurer, he shall, within the time specified in the twenty-ninth section of this act, give notice as in said section provided, and all proceedings in taking the depositions in such contest, shall be had in like manner as is provided in sections twenty-nine and thirty of this act, and when all said testimony is taken and reduced to writing, the persons or person officiating at the taking of the depositions, shall certify the same with a copy of the notice to the Secretary of the Territory, who with the Governor and United States Attorney of the Territory, shall open and examine the same, and their decision upon the matter shall be final.

Who may contest election of Territorial offices.

SEC. 33. Whenever any candidate or elector chooses to contest the validity of an election or the right of any person proclaimed duly elected to any county office, such person shall give the like notices required in the thirtieth section of this act, and shall choose one justice of the peace on his part, and the adverse party shall choose one other justice, and the two justices thus chosen shall choose a third justice of the peace, and the said three justices thus chosen, shall constitute a board to try the matter; said justices or either of them shall have power, and are hereby authorized to issue subpoenas to all witnesses whose testimony may be required by either party, but the evidence shall be reduced to writing. Said justices may adjourn from day to day until all the witnesses are heard, and they shall then make their decision thereon; *Provided*, however, that if the adverse party shall not choose a justice of the peace as herein provided, then, and in that case, the justice of the peace chosen by the contestant, shall proceed to hear and determine the matter in manner aforesaid; *Provided*, however, that either party feeling aggrieved at the decision of said justices of the peace, or justice of the peace, shall have the right to appeal to the district court, under the same rules and regulations as are provided for appeals from courts of justices of the peace to the district court.

Contest as to county offices.

SEC. 34. All costs accruing in any contested election shall be paid by the unsuccessful party, to be recovered by the proper civil action.

Unsuccessful party to pay costs.

SEC. 35. The Territorial Auditor and Territorial Treasurer shall qualify and enter upon the duties of their respective offices, on or before the first Monday of December next succeeding their election.

When Territorial officers shall qualify.

SEC. 36. All county and precinct officers, except judges of election and clerks of election, shall qualify and enter upon the duties of their respective offices, on or before the first Monday of December next succeeding their election.

Same as to county officers.

SEC. 37. Every free white male citizen of the United

Qualification of
voters—resi-
dence defined.

States, and he who has, in accordance with the laws of the United States, filed his declaration of intention to become such, and who has attained the age of twenty-one years, and shall have been an actual resident of this territory for six months, of the county twenty days, and of the precinct or ward where he intends to vote, ten days next preceding the election, shall be entitled to vote at any election in this territory; and the judges of election in determining the residence of a person offering to vote shall be governed by the following rules, so far as the same may be applicable:

First. That place shall be considered and held to be the residence of a person in which his habitation is fixed, without any present intention of removing therefrom, and to which, whenever he is absent, he has the intention of returning.

Second. A person shall not be considered or held to have lost his residence, who shall leave his home and go into another territory or state, or county of this territory, for temporary purposes merely, with an intention of returning.

Third. A person shall not be considered and held to have gained a residence in any county of this territory into which he shall have come for temporary purposes merely, without the intention of making it his residence.

Fourth. If a person remove to another territory or state, intending to make it his permanent residence, he shall be considered and held to have lost his residence in this territory.

Fifth. If a person remove to another territory or state, intending to remain there for an indefinite time, and as a place of present residence, he shall be considered and held to have lost his residence in this territory, notwithstanding he may intend to return at some future period.

Sixth. The place where a married man's family resides shall generally be considered and held to be his residence; but if it is a place of temporary establishment only, or for transient purposes, it shall be otherwise.

Seventh. If a married man have his family fixed in one place, and he does his business in another, the former shall be considered and held to be the place of his residence.

Eighth. The mere intention to acquire a new residence, without the fact of removal, shall avail nothing, nor shall the fact of removal, without intention.

Ninth. If a person shall go into another territory or state, and while there shall exercise the right of a citizen by voting, he shall be considered and held to have lost his residence in this territory.

Elector to deliver
ballot to judge
of election.

SEC. 38. Each elector shall, in full view of the people assembled at the polls where he offers to vote, deliver in person to one of the judges of election, a single ballot, or

piece of paper, on which shall be written or printed the names of the persons voted for, with a pertinent description of the office which he or they may be intended to fill.

SEC. 39. Any person who shall willfully vote in any precinct or ward in which he has not actually resided for ten days next preceding the election, shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, and be imprisoned in the jail of the county not less than one month nor more than six months.

Penalty for voting in wrong ward or precinct

SEC. 40. Any person being a resident of this Territory who shall go into any county and vote therein, not being a resident of such county, shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, and be imprisoned in the county jail, not less than five nor more than fifteen days.

Same as to wrong county.

SEC. 41. Any resident of another territory or state, who shall vote in this territory, shall, on conviction thereof, be fined in any sum not less than one hundred dollars, and imprisoned in the county jail for a period of not less than one year nor more than three years, and put to hard labor on the public highways in the county where said offense was committed, or both such fine, imprisonment at labor at the discretion of the court.

If a resident of another state—penalty.

SEC. 42. Any person who shall vote in this Territory, who has not been a resident thereof six months immediately preceding the election, or who at the time of the election, is not twenty-one years of age, he knowing the same, or who is not a citizen of the United States, or declared his intention to become such, as provided by law; he knowing the same, shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor not less than six months nor more than three years.

Penalty in case of voting when not six months in Territory, or of full age.

SEC. 43. Any person who shall procure, aid, counsel or advise another to give his vote, knowing that such other person has not been a resident of this Territory six months immediately preceding the election, or at the time of the election is not twenty-one years of age, or that he has not declared his intention to become a citizen of the United States as provided by law, or that he is not duly qualified from other disability, to vote at the place where and the time when the vote is to be given, shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars.

Penalty for aiding in illegal voting.

SEC. 44. Any person who shall procure, aid, assist or advise another to go into any county for the purpose of giving his vote therein, knowing that such other persons is not qualified to vote in such county shall, on conviction thereof, be fined in the sum not exceeding four hundred dollars.

Same.

Penalty in case
of bribing an
elector.

SEC. 45. If any person shall attempt by bribery to influence any elector of the Territory in giving his vote or ballot, or shall use any threat to procure any elector to vote contrary to his own inclinations, or to deter him from giving his vote or ballot, such person shall, on conviction thereof, be fined in any sum not exceeding one thousand dollars, nor less than three hundred dollars, and be imprisoned in the county jail of the proper county, not less than one month nor more than six months.

Deceiving a
voter—Penalty.

SEC. 46. Any person who shall furnish an elector who can not read, with a ticket, informing him that it contains a name or names different from those which are written or printed thereon, with an intention to induce him to vote contrary to his inclinations, or who shall fraudulently or deceitfully change the ballot of any elector by reason of which such elector shall be prevented from voting for such candidate or candidates as he intended, shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor not less than one year nor more than three years, and put to hard labor on the public highways in the county where said offense was committed, or both such final imprisonment and labor at the discretion of the court.

In case of chal-
lenge the person
must be sworn.

SEC. 47. If any person offering to vote is challenged as being unqualified, by one of the judges of the election or by any elector, one of the judges shall tender to him the following oath or affirmation: "You do swear (or affirm) that you will fully and truly answer all questions as shall be put to you, touching your place of residence and qualifications as an elector at this election."

If on the ground
that he is not a
citizen—form of
oath.

SEC. 48. If the person be challenged as unqualified, on the ground that he has not made his declaration of intention to become a citizen of the United States, the judges, or one of them, shall put the following question: "Have you made your declaration of intention to become a citizen of the United States?" If the person offering to vote answers affirmatively, he shall, before his vote is received, produce for the inspection of the judges of election his declaration of intention to become such citizen, properly sworn to before competent authority, and shall also state under oath or affirmation that he is the identical person therein named; *provided*, that the production of said declaration shall be dispensed with, if the person offering to vote shall state under oath or affirmation, when and where he made such declaration of intention to become a citizen of the United States, and that against his will his paper containing evidence of his having so made his declaration is lost, destroyed or beyond his power to produce to the judges of election; and *provided further*, that if he shall state, under oath or affirmation, that by

reason of the naturalization of his parents, or one of them, he has become a citizen of the United States, and when and where his parent or parents were naturalized, no declaration of his intention need be produced.

If the person be challenged as unqualified, on the ground that he has not resided in this Territory for six months immediately preceding the election, the judges, or any one of them, shall put the following questions. If as to residence—form of oath.

1st. "Have you resided in this Territory for six months immediately preceding this election?"

2d. "Have you been absent from this Territory within the six months immediately preceding this election." If he answers yes, then

3d. "When you left did you leave for a temporary purpose with the design of returning, or for the purpose of remaining away?"

4th. "Did you, while absent, look upon and regard this Territory as your home?"

5th. "Did you, while absent, vote in any other Territory or State?"

If the person be challenged as unqualified, on the ground that he is not a resident of the county, precinct or ward where he offers to vote, the judges, or one of them, shall put the following questions:

1st. "Have you resided in this county for twenty days last past?"

2d. "Have you resided in this precinct (or ward) for the last ten days?"

3d. "When did you last come into this county?"

4th. "When you came into this county was it for temporary purposes merely, or for the purpose of making it your home?"

5th. "Did you come into this county merely for the purpose of voting therein?"

6th. "Are you now an actual resident of this precinct or ward?"

If the person be challenged as disqualified, on the ground that he is not twenty-one years of age, the following question shall be put: If as to age—form of oath.

"Are you twenty-one years of age to the best of your knowledge and belief?"

The judges of election, or one of them, shall put all such other questions to the person challenged under the respective provisions of this act, as may be necessary to test his qualifications as an elector at that election.

SEC. 49. Any person who shall vote more than once at the same election, shall, on conviction thereof, be imprisoned in the penitentiary, and kept at hard labor not less than one year nor more than five years, be fined in any sum not less than one hundred dollars, and imprisoned in Voting more than once—Penalty.

the county jail for a period of not less than one year nor more than three years, and put to hard labor on the public highways in the county where said offense was committed or both such fine, imprisonment, and labor at the discretion of the court.

If person refuse
to swear his vote
shall be rejected.

SEC. 50. If any person shall refuse to take the oath or affirmation provided for in this act, his vote shall be rejected; and after such oath shall have been taken by such person, the judges shall, nevertheless refuse to receive such vote, if they shall be satisfied from record, evidence, or the testimony adduced before them that he is not a legal voter; and they are hereby authorized to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of a person offering to vote.

If challenge be
not withdrawn
—final oath.

SEC. 51. If a person's vote be challenged and such challenge be not withdrawn after he shall have answered the foregoing questions, or such of them as may be necessary, the judges of election, or one of them, shall tender to him the following oath: "You do solemnly swear that you are a citizen of the United States, (or have declared your intention to become such,) that you have been an inhabitant of the Territory of Nebraska for the last six months, and of the county of——for the last twenty days, and of this precinct for the last ten days; that you have attained the age of twenty-one years to the best of your knowledge or belief; that you will support the Constitution of the United States and the Organic Act of this Territory; that you have not either directly or indirectly given, and will not give, any aid whatever to any rebellion or insurrection against the government of the United States," *Provided however*, that if any person shall have accepted the President's Amnesty Proclamation, and have taken the oath of loyalty therein prescribed, the judges of election, or one of them, shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, (or have declared your intention to become such,) that you have been an inhabitant of the Territory of Nebraska for six months last past, and of the county of——for the last twenty days, that you have attained the age of twenty-one years to the best of your knowledge or belief; that you will support the Constitution of the United States and of the Organic Act of this Territory; and although you may have given aid to the present rebellion, you have accepted of the terms of the President's Amnesty Proclamation, and have taken the oath therein prescribed, and that you will hereafter faithfully adhere to the same, and will neither directly or indirectly give any aid whatsoever to any rebellion or insurrection against the government of the United States.

SEC. 52. Any person who shall, after the opening of the polls, fraudulently put a ballot or ballots, or ticket or tickets into the ballot box, shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor not less than one year nor more than three years.

SEC. 53. When any person's vote shall be received, after having taken the oath prescribed in the forty-seventh section of this act, it shall be the duty of the clerks of the election, to write on the poll book, at the end of the name of such person, the word "sworn."

Clerks to write "sworn" after the name of all voters who have been sworn.

SEC. 54. Any judge of the election who shall, after the opening of the polls, put a ballot or ticket into the ballot box, except his own, or such as may be received in the regular discharge of his duty, shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor not less than two years nor more than five years.

Penalty against judge for inserting fraudulent ballots.

SEC. 55. If any person challenged as unqualified to vote, shall be guilty of willful and corrupt false swearing, or affirming, in taking any oath or affirmation prescribed by this act, such person shall be adjudged guilty of willful and corrupt perjury, and upon conviction thereof, shall suffer the punishment attached by the laws of this Territory to the crime of perjury.

Penalty for false swearing under this act.

SEC. 56. If any judge of the election shall knowingly receive or sanction the reception of a vote, from any person not having all the qualifications of an elector, prescribed by this act; or shall receive or sanction the reception of a ballot from any person who shall refuse to answer any question which shall be put to him in accordance with the provisions of that act, or shall refuse or sanction the refusal by any other judge of the board to which he shall belong, to administer either of the oaths or affirmations prescribed by this act; or if any judge or clerk of election, on whom any duty is enjoined by this act, shall be guilty of any willful neglect of such duty, or of any corrupt conduct in the execution of the same, such judge or clerk, on conviction thereof, shall be imprisoned in the penitentiary and kept at hard labor not less than one nor more than five years.

Penalty against judges for receiving fraudulent votes.

SEC. 57. Every person who shall be convicted, and sentenced to be punished by imprisonment, and sentenced to the county jail and hard labor, as herein provided, for any offense specified in this act, or who shall be convicted of, and sentenced for bribery, under the provisions of this act, shall be deemed forever after incompetent to be an elector, or to hold any office of honor, trust, or profit within this Territory, unless such convict shall receive from the Governor of this Territory a general pardon, under his hand, and the seal of this Territory, in which case said convict shall be restored to all his civil rights and privileges.

Persons convicted of bribery, etc., under this act, to be incompetent to vote thereafter, unless, etc.

SEC. 58. Nothing contained in this act, so far as the same relates to the length of time required of the voter to reside in the precinct or ward where he offers to vote, shall be held, taken or construed to apply to any voter, who is the head of a family, who shall, bona fide, remove with his family from one ward to another within the corporate limits of any town or city in this Territory, or who shall remove from one precinct to another within the same county.

SEC. 59. All prosecutions under the provisions of this act, shall be by indictment before the District Court of the proper county, and shall be governed in all respects by the laws in force in this Territory regulating prosecutions in that court for offences of like punishment at the time such prosecution is commenced.

SEC. 60. All fines imposed under the provisions of this act, shall, when collected, be paid into the county treasury, for the benefit of the common schools of the county in which such fines are collected : and the County Treasurer shall apportion said funds among the different school districts of said county, in proportion to the number of scholars residing therein.

SEC. 61. The control of any person or persons convicted and sentenced, under the provisions of this act, shall be under the general supervision, control, and direction of the county commissioners of the county in which such conviction shall be had, (or a majority of them,) to designate the place where the person or persons so sentenced, shall work, and under whose custody such convict or convicts shall be while so at work.

SEC. 62. That chapter nine of an act entitled "An act revising, consolidating and preparing a general code for the Territory of Nebraska," approved January 26th, A. D. 1856; an act entitled "An act to amend an act in relation to elections, approved January 26th, 1856," and approved February 13th, 1857; an act entitled "An act providing for the election of judges and clerks of election, and defining their duties," approved January 10th, 1862; and an act entitled "An act respecting elections," approved January 10th, 1862, and all other acts inconsistent with this act be, and the same are hereby repealed; Provided, however, that nothing in this act contained, shall affect or invalidate any laws of this Territory which enable the militia and volunteers of this Territory, when in the military service of the United States, to exercise the right of suffrage.

Approved February 15, 1864.

AN ACT

To Define the Duties of the Adjutant-General of the Territory of Nebraska.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the Adjutant-General shall, under the Governor of the Territory of Nebraska, direct and superintend the formation and organization and exercise the active control and command of the volunteer or enrolled militia, in the Territory; and shall have a supervision over the military force from this Territory in the actual service of the United States, as hereinafter provided.

SEC. 2. He shall keep a record of all military commissions issued by the Governor, with the date of the same; and shall keep in his office copies of his official correspondence, and also a correct register of the organization of both the volunteer and enrolled military force of this Territory, either within or out of the same.

SEC. 3. He shall also keep a complete and correct record of all the organized volunteer or enrolled companies in the Territory, including the number of efficient men in each, and the name and respective rank of the officers of each; and he shall also keep a like record of each volunteer or enrolled company in actual service of the United States, from this Territory.

SEC. 4. It shall be the duty of the captain of each volunteer or enrolled company of militia, in the Territory, and of the captain of each volunteer or enrolled company, in actual service of the United States, from this Territory, to make and transmit to the adjutant-general, on or before the first day of June and December, in each year, a complete and correct report, containing the facts requisite to enable him to comply with the provisions of this act.

SEC. 5. He shall have authority to require from all officers, at any time, such reports and returns as may be necessary to inform himself of the military condition of any portion of the force under his command or supervision.

SEC. 6. It shall be his duty, when practicable, to drill and inspect, in person, at least once in each year, every part of the volunteer or enrolled militia in the Territory; and he may order such inspection at any time.

SEC. 7. He shall have authority to examine into the

May examine
armories, etc.

armories, or other places of deposit of the public arms and equipments; and in case of defective arrangements for the preservation of such arms and equipments, held by any portion of the volunteer or enrolled militia of the Territory, he may require the commanding officer of that portion, to make better provisions for their safe keeping; or he may require that they shall be surrendered to the Territory.

Further duties.

SEC. 8. He shall likewise be required to discharge such additional duties as the Governor, as commander-in-chief, may prescribe.

Shall make annual report to Governor.

SEC. 9. He shall make, annually, on or before the first day of January, a return to the Governor of the Territory, of the condition of the volunteer and enrolled militia in the Territory, and of the military force in actual service of the United States, from this Territory, and of the state of their arms and equipments, accompanied by a report showing the condition of the whole force as to instruction, discipline and efficiency.

Books, papers, etc., to be furnished by Territory.

SEC. 10. The necessary books, stationery, and blank forms required by the adjutant-general, shall be furnished at the expense of the Territory; and he shall turn over to his successor all records and papers belonging to his office.

Annual compensation.

SEC. 11. The adjutant-general shall be allowed, annually, for his services the sum of three hundred dollars, to be audited like other claims on the Territory, and paid annually.

SEC. 12. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To regulate the Adoption of Children.

Adoption of children—how consummated.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That whenever it may be desirable that any person or persons adopt the child of another, the same may be consummated in the manner hereinafter provided.

Same.

SEC. 2. The parents, guardians, or other person or persons having lawful control or custody of any minor child, may make a statement in writing before the judge of probate of the county where the person or persons desiring to adopt said child reside, that he, she or they voluntarily relinquish all right to the custody of and power and con-

trol over such child (naming him or her), and all claim and interest in or to the services and wages of such child; to the end that such child shall be fully adopted by the party or parties (naming them), desiring to adopt such child, which statement shall be signed and sworn to by the party making the same, before said judge of probate, or in the presence of at least two witnesses, and the person and persons desiring to adopt such child shall also make a statement in writing to the effect that he, she or they freely and voluntarily adopt such child (naming him or her) as their own, with limitations and conditions as shall be agreed upon by the parties, which said statement shall also be signed and sworn to by the parties making the same before said judge of probate, in the presence of at least two witnesses, *Provided*, in all cases where such child shall be of the age of fourteen years and upward, the written consent of such child shall be necessary to the validity of such proceeding; and provided further, whenever it shall be desirable, the party or parties adopting such child may, by stipulations to that effect in such statement, adopt such child and bestow upon him or her equal rights, privileges and immunities of children born in lawful wedlock, and such statement shall be filed with and recorded by said judge of probate, in a book kept in his office for that purpose.

SEC. 3. And said judge of probate shall appoint a time and place for the hearing of said matter, and shall give three weeks notice thereof to all persons who may be interested in said matter, by publication thereof in a newspaper published in said county, and in case no paper is published in said county, then the notice shall be published in a newspaper printed in this Territory and of general circulation in said county.

Hearing of application—
notite.

SEC. 4. At the time and place of the hearing of such matter, if said hearing shall not be adjourned, the said judge of probate shall, under a decree therein, in accordance with the conditions and stipulations of said statement, *Provided*, in case it shall appear to the satisfaction of said judge of probate, that such proceedings are not for the best interest of the child or children, he may refuse to enter such decree and the matter shall thereupon be dismissed.

Probate judge may make decree after hearing, unless, &c.

SEC. 5. All decrees entered in such cases in conformity with the provisions and requirements of this act, shall be conclusive upon all the persons interested in such proceedings or matter, and the child or children thus adopted shall take the surname of the person or persons adopting the same, and all relations of parent and child, agreeable to such stipulations and the decree of the probate court shall attach, and such child or children, if so stated in such decree, shall be subject to the exclusive control and custody of such parent

Decree to be conclusive.

or parents, and shall possess and enjoy all the rights, privileges, inheritance, heirships and immunities of children born in lawful wedlock.

Fees of probate
judge.

SEC. 6. The judge of probate shall be entitled to charge the same fees for such services as now or hereafter may be provided by law for like services in other cases.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To change the time for returning Venires to Petit Jurors in the First and Second Judicial Districts.

Petit jurors in
Cass, Nemaha
and Richardson
counties to ap-
pear on second
day of term.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the venires for petit jurors in the counties of Cass, Nemaha and Richardson, shall be issued commanding the jurors therein named to appear at one o'clock on the second day of the term of the court of the proper county, and in all of the other counties of the second judicial district, in which a term of said court has been or may be held, except Otoe county, the jurors named in the venires shall be summoned to appear at one o'clock of the first day of each term of said court.

In all other
counties of 2d
district, except
Otoe, on first
day of term.

In Sarpy, Dodge
and Platte, ju-
rors to appear on
first day of term.
In Douglas on
third day.

SEC. 2. That hereafter, the venires for petit jurors in the counties of Sarpy, Dodge and Platte, shall be made returnable, and the jurors therein shall be required to appear on the first day of the regular or special term of the district court in and for said counties; and in the county of Douglas, such venires shall be made returnable, and the jurors therein named shall be required to appear on the third day of such regular or special terms of the district court for said Douglas county.

Conflicting acts
repealed.

SEC. 3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved February 15, 1864.

AN ACT

To encourage the Cultivation of Fruit and Forest Trees and Grape Vines.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the act entitled "An Act to encourage the growth of fruit, forest and ornamental trees," approved January 4, 1861, together with an act entitled "An Act to encourage the cultivation of grapes," approved January 10, 1862, be and the same are hereby repealed. Certain acts repealed.

SEC. 2. The cultivation of fruit, forest and ornamental trees or grape vines, upon any land in this Territory, shall in no case increase the value of said land for revenue purposes. Cultivation of fruit trees, &c., not to increase value of lands for taxation.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To amend Section Three Hundred and Ten of the Code of Civil Procedure, and relative to the competency of Witnesses.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That section three hundred and ten of the code of civil procedure be and the same is hereby amended so as to read as follows: Every human being of sufficient capacity to understand the obligation of an oath, is a competent witness in all cases civil and criminal, except as otherwise herein declared. The following persons shall be incompetent to testify: *First*. Persons of unsound mind at the time of their production. *Second*. Indians and negroes who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them intelligently and truly. *Third*. Husband and wife, concerning any communication made by one to the other during the marriage, whether called as a witness while that relation subsists or afterward. *Fourth*. An attorney, concerning Sec. 310 of civil code amended.
Who shall be competent witnesses.
Who incompetent.

any communication made to him by his client in that relation or his advice thereon, without the client's consent in open court or in writing produced in court. *Fifth.* A clergyman or priest, concerning any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs, without the consent of the person making the confession.

Conflicting acts repealed.

SEC. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Create and Regulate Railroad Companies.

Five or more persons may become a body corporate.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That any number of natural persons, not less than five, may become a body corporate with all the rights, privileges and powers conferred by, and subject to all the restrictions of this act.

Shall make a certificate—what it shall specify.

SEC. 2. That any number of persons as aforesaid, associating to form a company for the purpose of constructing a railroad, shall under their hands, make a certificate which shall specify as follows:

1st. The name assumed by such company and by which it shall be known.

2d. The names of the places of the termini of said road, and the county or counties through which such road shall pass.

Same shall be recorded by secretary of Territory.

3d. The amount of capital stock necessary to construct such road. Such certificate shall be acknowledged before a notary public, and certified by the clerk of the district court in the same manner as is provided for the conveyance of real estate, and shall be forwarded to the secretary of the Territory or State, who shall record and carefully preserve the same in his office; and a copy thereof duly certified by said secretary under the seal of the Territory or State, shall be prima facie evidence of the existence of such corporation.

When above provisions have been complied with, corporators to be deemed a body corporate—general powers &c.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate, are hereby authorized to carry into effect the objects named in such certificate in accordance with the

provisions of this act, and they, and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey at pleasure all such real and personal estate as may be necessary and convenient to carry into effect the objects of the corporation; to make and use a common seal, and the same to alter at pleasure, and do all needful acts to carry into effect the objects for which it was created. And such company shall possess all the powers, and be subject to all the rules and restrictions provided by this act.

SEC. 4. Said corporation shall be authorized and empowered to lay out, locate, construct, furnish, maintain, operate and enjoy a railroad [with single or double tracks, with such side tracks, turn outs, offices and depots as shall be necessary, between the places of the termini of the said road, commencing at or within, and extending to or into any town, city or village, named as the places of the termini of said road, and construct branches from the main line to other towns or places within the limits of this Territory.

May lay out, construct and maintain a railroad.

SEC. 5. The capital stock of such company shall be divided into shares of one hundred dollars each, and consist of such sum as may be named in the certificate; such shares shall be regarded as personal property, and shall be subject to sale or transfer, and to execution at law.

Capital stock to be in shares of \$100—shall be regarded as personal property.

SEC. 6. An installment of ten per cent. on each share of stock, shall be payable at the time of making the subscription, and the residue thereof shall be paid in such installments, and at such times and places as may be required by the directors of such company.

Ten per cent. of stock to be paid when subscribed.

SEC. 7. If any installment of stock shall remain unpaid for sixty days after the time it may be required or specified in the call by order of the board of directors, whether said stock is held by an assignee, transferee, or original subscriber, the same may be collected by action of debt, or the directors may, at their election, serve upon such stockholder, in case he shall be a resident of the Territory, thirty day's notice in writing, that such installment has been due and unpaid for the term aforesaid, or in case such stockholder shall be a non-resident of this Territory, publish in some newspaper printed at the capital of this Territory, and of general circulation in this Territory, a like notice that such installment has been due and unpaid for the term aforesaid, and if the said installment shall not be paid, with all the charges and expenses incurred in the proceedings hereby prescribed, within ninety days after the service of notice or the last publication, provided for

Delinquent stock may be declared forfeited.

as aforesaid, the said stock, and all the right, title and interest of the said assignee, transferee, or original subscriber therein, shall by virtue of such failure, and without further action by such company, become forfeited, and may be disposed of by said company as it sees proper.

Increase of capital stock—how effected.

SEC. 8. That whenever any railroad company heretofore incorporated, or created and incorporated under the provisions of this act, shall, in the opinion of the directors thereof, require an increased amount of capital stock, they shall, when authorized by the holders of a majority of the stock, file with the secretary of the Territory or State, a certificate, setting forth the amount of such desired increase, and thereafter such company shall be entitled to have such increased capital as is fixed by said certificate.

Corporators may open books for subscription of stock.

SEC. 9. That the persons named in said certificate of incorporation, or any three of them, shall be authorized to order books to be opened for receiving subscriptions to the capital stock of said company, at such time or times, and at such place or places as they may deem expedient, after having given at least thirty day's notice, in a newspaper published, or generally circulated in one or more counties where books of subscription are to be opened, of the time and place of opening books; and so soon as ten per centum on the capital stock shall be subscribed, they may give like notice for the stockholders to meet at such time and place as they may designate, for the purpose of choosing seven directors who shall continue in office until the time fixed for the annual election, and until their successors are chosen and qualified. At the time and place appointed, directors shall be chosen by ballot, by such of the stockholders as shall attend for that purpose, either in person or by lawful proxies. Each share shall entitle the owner to one vote, and a plurality of votes cast at such election shall be necessary for a choice; but after the first election for directors, no person shall vote on any share on which any installment is due and unpaid. The persons named in such certificate, or such of them as may be present, shall be inspectors of such election, and shall certify what persons are elected directors, and appoint the time and place for holding their first meeting. A majority of said directors shall form a board, and be competent to fill vacancies therein, make by-laws not inconsistent with the provisions of this act or the laws of this Territory, or the future State of Nebraska, and alter the same at pleasure, and transact all business of the corporation. A new election shall be annually held for directors, at such time and place as the stockholders, at their first meeting shall determine, or as the by-laws of the corporation may require; and the directors chosen at any election shall, so soon thereafter as may be convenient, choose one of their num-

Election of directors by ballot.

New election for directors to be held annually.

ber to be president, and shall appoint a secretary and treasurer of the corporation. The directors shall, from time to time, make such dividends of the profits of the said company as they may think proper, and the said by-laws, and all alterations and revisions thereof shall be recorded and preserved in the office of the secretary of the Territory or State, in the same manner as the certificate provided for in section second of this act.

SEC. 10. Such corporation is authorized to enter upon any land for the purpose of examining and surveying its railroad line, and may take, hold, and appropriate so much real estate as may be necessary for the location, construction and convenient use of its road, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, side tracks, turn tables and water stations; all materials for the construction and repair of said road and its appurtenances; and a right of way over adjacent lands, sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains, *Provided, That* the lands so held, taken and appropriated, otherwise than by the consent of the owner, shall not exceed two hundred feet in width, except for wood and water stations, and depot grounds, unless where greater width is necessary for excavations, embankments, or depositing waste earth, and *Provided further, That* no appropriation of private property, for the use of any corporation provided for in this act shall be made, until full compensation therefor be first made or secured to the owners thereof.

Real estate may be entered upon and appropriated for railroad purposes.

Compensation for property appropriated.

SEC. 11. That whenever any railroad company, heretofore incorporated, or which may hereafter be incorporated, shall find it necessary, for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves or grades, or unsafe or unsubstantial grounds or foundations, or for other reasonable causes, to change the grade or location of any portion of their road, whether heretofore made, or hereafter to be made, such railroad companies shall be, and are hereby authorized to make such changes of grade and location, not departing from their general route.* And for the purpose of making any such change in the location and grades of any such roads as aforesaid, such companies shall have all the rights, powers and privileges to enter upon, and appropriate such lands and make surveys necessary to effect such changes and grades upon the same terms, and be subject to the same obligations, rules and regulations as are prescribed by law; and shall also be liable in damages, when any may have been caused by such change, to the owner or owners of lands upon which such road was heretofore constructed, to be ascertained and paid, or deposited as herein provided; but

Grade or location may be changed.

Damages resulting from change.

no damages shall be allowed, unless claimed within ninety days after actual notice in writing of such intended change shall be given to such owner or owners residing on the premises, or notice by publication in some newspaper in general circulation in the county, if non-resident.

Occupation of
streets, alleys,
&c.

SEC. 12. If it shall be necessary, in the location of any part of any railroad to occupy any road, street, alley, or public way or ground of any kind, or any part thereof, it shall be competent for the municipal or other corporation or public officer or public authorities, owning or having charge thereof, and the railroad company to agree upon the manner, and upon the terms and conditions upon which the same may be used or occupied; and if said parties shall be unable to agree thereon, and it shall be necessary in the judgment of the directors of such railroad company to use or occupy such road, street, alley or other public way or ground, such company may appropriate so much of the same as may be necessary for the purposes of such road, in the same manner and upon the same terms as is provided for the appropriation of the property of individuals by the tenth section of this act.

Corporation
may borrow
money &c.

SEC. 13. Such company shall have power to borrow money on the credit of the corporation, and may execute bonds on promissory notes therefor, and to secure the payment thereof, may pledge the property and income of such company.

May acquire real
estate in vicinity
of road.

SEC. 14. Such company may acquire, by purchase or gift, any lands in the vicinity of said road, or through which the same may pass so far as the same may be deemed convenient or necessary by said company to secure the right of way to such as may be granted to aid in the construction of such road, and the same to hold or convey in such manner as the directors may prescribe; and all deeds and conveyances made by such company shall be signed by the president under the seal of the corporation, and any existing corporation may accept the provisions of this act, by filing in writing their acceptance thereof, under the seal of said corporation, in the office of the secretary of the Territory or State. And upon filing such acceptance, such corporation shall, from the date thereof, succeed to, and become invested with all the rights, privileges, immunities and powers conferred by this act without reorganizing. The said secretary shall record and preserve such acceptance in his office, and a copy thereof duly certified by said secretary, under the seal of the Territory or State, shall be evidence in all the courts of this Territory or State of such acceptance.

May cross roads,
canals or
streams,

SEC. 15. Any railroad company may construct and carry their railroad across, over, or under any road, railroad, canal, stream or water course, when it may be neces-

sary in the construction of the same; and in such cases said corporation shall so construct their railroad crossings as not unnecessarily to impede the travel, transportation or navigation upon the road, railroad, canal, stream or water course so crossed. Said corporation shall have the right to change the channel of any stream or water course from its present location or bed, whenever it may be necessary in the location, construction or use of their said road; Provided, they do not change its general course, or materially impair its former usefulness.

SEC. 16. Such corporation shall, upon commencing business, establish an office at some point on the line of its road, and may change the same at pleasure.

Shall establish an office on line of road—may change same.

SEC. 17. That each and every railroad company, incorporated under this act, and such as shall hereafter accept the same, shall annually, in the month of January, make upon the oath of the president, secretary, or treasurer, a full report of the condition of its affairs to the Auditor of the Territory or State, showing the amount of the capital stock of such company—the gross amount of receipts during the previous year—the cost of repairs and incidental expenses—the net amount of profits and the dividends made, with such other facts as may be necessary to a full statement of the affairs and condition of such road; and the auditor shall incorporate an abstract thereof in his annual report to the General Assembly.

Shall make annual report in January to Territorial Auditor.

SEC. 18. That whenever the lines of railroad of any railroad companies in this Territory or State, or any portion of such lines have been or may be constructed, so as to admit the passage of burden or passenger cars over any two or more of such roads continuously, without break of gauge or interruption, such companies are hereby authorized to consolidate themselves into a single corporation, in the manner following:

May consolidate with other companies.

The directors of said two or more corporations may enter into an agreement, under the corporate seal of each, for the consolidation of the said two or more corporations, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation; the number of the directors thereof, which shall not be less than seven; the time and place of holding the first election of directors; the number of shares of capital stock in the new corporation; the amount of each share; the manner of converting the shares of capital stock in each of said two or more corporations, into shares in such new corporation; the manner of compensating stockholders in each of said two or more corporations, who refuse to convert their stock into the stock of such new corporation, with such other details as they shall deem necessary to perfect such consolidation of said corporations; and such

Manner of consolidation.

Proviso.

Agreement to consolidate not to be valid till approved by a two-thirds vote of stockholders.

new corporations shall possess all the powers, rights and franchises conferred upon such said two or more corporations, and shall be subject to all the restrictions, and perform all the duties imposed by the provisions of this act; *Provided*, that all stockholders in either of such corporations who shall refuse to convert their stock into the stock of such new corporation, shall be paid the market value of said stock, at the date of such consolidation.

SEC. 19. Such agreement of the directors shall not be deemed to be the agreement of the said two or more corporations until after it has been submitted to the stockholders of each of the said corporations separately, at a meeting thereof, to be called upon a notice of at least ninety days, specifying the time and place of such meeting, and the object thereof; to be addressed to each of such stockholders, when the place of residence is known, and deposited in the Post Office, and published at least for six successive weeks, in one newspaper in one of the cities or towns in which each of said corporations has its principal office of business, and has been sanctioned by such stockholders, by the vote of at least two-thirds in amount of the stock represented at such meeting, voting by ballot in regard to such agreement, either in person or by proxy, each share of capital stock being entitled to one vote. And when such agreement of the directors has been so sanctioned by each of the meetings of the stockholders, separately, after being submitted to such meetings, in the manner above mentioned, then such agreement of the directors shall be deemed to be the agreement of the said two or more corporations.

Agreement to consolidate to be filed with Secretary of Territory.

SEC. 20. Upon making the agreement mentioned in the preceding section, in the manner required therein, and filing a duplicate in counterpart thereof, in the office of the Secretary of the Territory, or State, the said two or more corporations (mentioned or referred to in the last two preceding sections, said first section, or any other law of this Territory,) shall be merged in the new corporation provided for in such agreement, to be known by the corporate name therein mentioned; and the details of such agreement shall be carried into effect, as provided therein.

Title to property of former companies to vest in consolidated companies.

SEC. 21. Upon the election of the first board of directors of the corporation, created by the agreement in the twentieth section of this act mentioned, and by the provisions of this act, all and singular, the rights and franchises of each and all of said two or more corporations, parties to such agreement, all and singular, the rights and interests in, and to, every species of property, real, personal and mixed; and things in action, shall be deemed to be transferred to, and vested in, such new corporation, without any

other deed or transfer. And such new corporation shall hold and enjoy the same, together with the right of way, and all other rights of property in the same manner and to the same extent as if the said two or more corporations, parties to such agreement, should have continued to retain the title and transact the business of such corporations. And the titles, and the real estate acquired by either of said two or more corporations, shall not be deemed to revert, or be impaired by means of any thing in this act contained; Provided, that all rights of creditors, and all liens upon the property of either of said corporations, shall be, and hereby are, preserved unimpaired; and the respective corporations shall continue to exist, as far as may be necessary to enforce the same, and, Provided further, that all debts, liabilities, and duties of either Company shall thenceforth attach to such new corporation and be enforced from the same to the same extent and in the same manner as if such debts, liabilities and duties had been originally incurred by it.

Proviso.

SEC. 22. When any two or more railroad companies shall become consolidated, as contemplated by the provisions of this act, such companies so consolidated, shall keep each and every railroad line that may come into its possession, by such consolidation, in good running order, with sufficient rolling stock to transport the freight and passengers. They shall not discriminate against the business of either or any of said railroad lines, either directly or indirectly, by the detention of freight or passengers, or by charging more for freight or passage than is charged in proportion upon any other railroad line, under the control of said company so consolidated.

All roads consolidated to be kept in good repair—and no discrimination to be made in favor of either.

SEC. 23. Any railroad company heretofore or hereafter incorporated may, at any time, by means of subscription to the capital stock of any other company, or otherwise, aid such company in the construction of its railroad, for the purpose of forming a connection of said last mentioned road with the road owned by the company furnishing such aid, or any railroad company existing in pursuance of law, may lease or purchase any part, or all of any railroad constructed by any other company, if said company's lines of said road are continuous or connected as aforesaid, upon such terms and conditions as may be agreed on between said companies respectively; or any two or more railroad companies whose lines are so connected, may enter into an arrangement for their common benefit consistent with, and calculated to promote the objects for which they were created; *Provided*, that no such aid shall be furnished, nor any purchase, lease, or arrangement perfected, until a meeting of the stockholders of each of said companies shall have been called by the directors thereof, at such time and

Railroads may aid each other by subscriptions; may lease other roads, etc.

Proviso as to assent of stockholders.

place and in manner as they shall designate; and the holders of at least two-thirds of the stock of such company, represented at such meeting, either in person or by proxy, and voting thereat shall have assented thereto.

May purchase
real estate—
damages, how
determined.

Proviso as to
property in un-
organized coun-
ties.

Property of mi-
nors, etc.—how
acquired.

Right of way—
how appropri-
ated who parties
can not agree.

SEC. 24. Any railroad corporation may purchase and use real estate for a price to be agreed upon with the owners thereof; or the damages to be paid by such corporation for any real estate taken as aforesaid, when not agreed upon, shall be ascertained and determined by commissioners to be appointed by the probate judge of the county wherein such real estate is situated, in conformity with the provisions of this act; *Provided*, that if the company shall need or require for the purpose of constructing said railroad to take and occupy any real estate, in any unorganized county, or other unorganized country in the Territory or future State of Nebraska, where there is no probate judge, then the probate judge of the first organized county east of said lands, upon the line of said road, shall appoint commissioners to assess said damages, and to perform all other duties required by the probate judges and commissioners, by the terms of this act, and either shall have the right to appeal, as in other cases provided for by this act.

SEC. 25. Whenever any railroad corporation shall take any real estate as aforesaid, of any minor, insane person, or any married woman whose husband is under guardianship, the guardian of such minor or insane person, or such married woman with the guardian of such husband may agree, and settle with said corporation for all damages or claims by reason of the taking of such real estate, and may give valid releases and discharges therefor.

SEC. 26. If the owner of any real estate over which said railroad corporation may desire to locate their road, shall refuse to grant the right of way through his or her premises, the probate judge of the county in which said real estate may be situated, as provided in section twenty-four of this act, shall, upon the application of either party, direct the sheriff of said county to summon six disinterested freeholders of said county to be selected by said probate judge and not interested in a like question, unless a smaller number is agreed upon by the parties, whose duty it shall be to inspect said real estate and assess the damages which said owner will sustain by the appropriation of his land to the use of said railroad corporation, and make report in writing to the probate judge of said county, who, after certifying the same under his seal of office, shall transmit the same to the county clerk and *ex officio* register of deeds of said county for record, and the said county clerk shall file, record and index the same in the same manner as is provided for the record of deeds in this Territory. And such record shall have the like force and

effect as the record of deeds in pursuance of the statute in such case made and provided. And if said corporation shall, at any time before they enter upon said real estate for the purpose of constructing said road, pay to said probate judge for the use of said owner, the sum so assessed and returned to him as aforesaid, they shall thereby be authorized to construct and maintain their railroad over and across said premises; *Provided*, that either party may have the right to appeal from such assessment of damages to the district court of the county in which such lands are situated, within sixty days after such assessment. And in case of such appeal, the decision and finding of the district court shall be transmitted by the clerk thereof, duly certified, to the county clerk, to be filed and recorded, as hereinbefore provided, in his office. But such appeal shall not delay the prosecution of the work on said railroad, if such corporation shall first pay or deposit with said probate judge the amount so assessed by said freeholders; and in no case shall said corporation be liable for the costs on such appeal, unless the owner of such real estate shall be adjudged, entitled upon the appeal, to a greater amount of damages than was awarded by said freeholders. The company shall, in all cases, pay the costs of the first assessment; *provided*, that either party may appeal from the decision of the district court to the supreme court of the Territory, or State, and the money so deposited, shall remain in the hands of the probate judge until a final decision be had, subject to the order of the supreme court.

Right of appeal
to the district
court.

To supreme
court.

SEC. 27. Freeholders so appointed shall be the commissioners to assess all damages to the owners of real estate in said county; and said corporation may, at any time after their appointment, upon the refusal of any owner or guardian of any owner of lands in said county to grant the right of way as aforesaid, by giving the said owner or guardian ten days notice thereof in writing either by personal service or by leaving a copy thereof at his usual place of residence, have the damages assessed in the manner hereinbefore prescribed.

Freeholders ap-
pointed to assess
damages, to de-
cide all cases in
their county.

SEC. 28. In case of the death, absence, or refusal, or neglect, of any of said freeholders to act as commissioners as aforesaid, the sheriff shall, upon the selection of said probate judge, summon other freeholders to complete the panel, and said commissioners shall proceed as directed in the preceding section. Said commissioners shall receive two dollars per day, each, for their services, and the same shall be taxed in the bill of costs.

In case of vacan-
cy in commis-
sion of freehold-
ers, probate
judge shall fill
by selection.

SEC. 29. If upon the location of said railroad it shall be found to run through the lands of any non-resident owner, the said corporation may give four weeks notice to such proprietor, if known, and if not known, by a descrip-

Right of way
through lands of
non-residents—
how appropri-
ated.

tion of such real estate by publication four consecutive weeks in some newspaper published in the county where such lands may lie, if there be any, and if not, in one nearest thereto on the line of their said road, that said railroad has been located through his or her lands, and if such owner shall not, within thirty days thereafter, apply to said probate judge to have the damages assessed in the mode prescribed in the preceding sections, said company may proceed, as herein set forth, to have the damages assessed, subject to the same right of appeal as in case of resident owners; and upon the payment of the damages assessed to the probate judge of the proper county for such owner, the corporation shall acquire all rights and privileges mentioned in the twenty-seventh section of this act.

Railroads may raise or lower turnpikes, &c., at crossing points.

SEC. 30. Any railroad corporation may raise or lower any turnpike, plank road, or other way, for the purpose of having their railroad pass over or under the same; and in such cases said corporation shall put such turnpike, plank road or other way, as soon as may be, in good repair.

Shall keep crossings in good order while lowering or raising same.

SEC. 31. Every railroad corporation while employed in raising or lowering any turnpike or other way, or in making any other alterations, by means of which the said way be obstructed, shall provide, and keep in good order, suitable temporary ways to enable travelers to avoid or pass such obstructions.

Same as to bridges, &c., by them constructed.

SEC. 32. Every railroad corporation shall maintain and keep in good repair, all bridges with their abutments, which such corporation shall construct, for the purpose of enabling their road to pass over or under any turnpike, road, canal, water-course or other way.

Bell or whistle to be kept on each locomotive, &c.

SEC. 33. A bell of at least thirty pounds weight, or a steam whistle shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where the said railroad shall cross any other road or street, and be kept ringing or whistling until it shall have crossed said road or street, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer, and the other half to the Territory or future State of Nebraska, and also be liable for all damages which shall be sustained by any person by reason of such neglect.

Railroads may pass over school and saline lands, &c.

SEC. 34. Any railroad corporation shall be authorized to pass over, occupy and enjoy, any of the school, university, saline or other lands of this Territory or State, *Provided*, no more of such lands shall be taken than is required for the necessary use and convenience of such corporation, and provided further, that the damages accruing to any occupant or owner, or other person who may reside or have improvements on said land, shall be determined and paid

by said railroad company as heretofore provided in this act.

SEC. 35. When any person owns land on both sides of any railroad, the corporation owning such railroad, shall, when required so to do, make and keep in good repair, one causeway or other adequate means of crossing the same. Shall put in good crossings in certain cases.

SEC. 36. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any place within five miles of any station. Passengers refusing to pay fare may be put off.

SEC. 37. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned not less than six months nor more than one year; and be imprisoned until the fine is paid. Penalty against engineers or conductors who become intoxicated while on duty.

SEC. 38. If any person or persons shall willfully do or cause to be done any act or acts whatever, whereby any building, construction, or work of any railroad corporation or telegraph line, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit any pay to the said corporation treble the amount of damages sustained by means of such offense; and in case any person or persons shall willfully place any obstruction on the track, or change or misplace any switches of any railroad corporation, he shall, on conviction thereof, be imprisoned in the penitentiary and kept at hard labor for the term of not more than ten nor less than five years, said term of imprisonment to be fixed by the jury before whom such conviction shall be had; and in case death shall result to any passenger, employee of the company, or other person on the train, by reason of such obstruction, or change or displacement of switches, the person or persons committing such offense shall be deemed guilty of murder, and shall, on conviction thereof before any court of competent jurisdiction, suffer the punishment provided for said offense by the laws of this Territory or State; and it shall not be lawful for any person other than those connected with or employed upon the railroad, to walk or lead, ride or drive any animal along the track or tracks of any railroad. Penalty against persons placing obstructions on railroads. Unlawful to walk, ride or drive along railroad tracks.

SEC. 39. In case any passenger on any railroad shall be

Railroad companies not liable in damages to persons injured while on the platform, &c., in violation of its rules.

Liabile as common carriers for delivery of freight.

Liability of stockholders.

Railways may cross, intersect, or unite with other roads, &c., in this Territory.

Same as to roads in adjoining States or Territories.

May also consolidate.

injured while on the platform of a car while in motion, or in any baggage, wood or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury : *Provided*, said company furnished room inside its passenger cars sufficient for the accommodation of its passengers.

SEC. 40. Any railroad company receiving freight for transportation, shall be entitled to the same rights and be subject to the same liabilities as common carriers. And whenever two or more railroads are connected together, the company owning either of said roads receiving freight to be transported to any place on the line of either of the roads so connected, shall be liable as common carriers for the delivery of such freight to the consignee of said freight, in the same order in which such freight was shipped.

SEC. 41. Every stockholder of any railroad company shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole of the capital stock held by him shall have been paid to the company; but in no other case shall the stockholders be individually liable for the debts of the corporation.

SEC. 42. Every railroad company shall have power to cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route and upon the grounds of such other railroad company, with the necessary turn-outs, sidings and switches, and other conveniences in furtherance of the objects of its connection. And every company whose railroad is or shall hereafter be intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations can not agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners, to be selected as provided in section twenty-six of this act.

SEC. 43. Every railroad company shall have power to intersect, join and unite their railroads, constructed or to be constructed, in this Territory or future State, or in adjoining States and Territories, at such point on the boundary line of each, or at such other point as may be mutually agreed upon by said companies. And such railroads are authorized to merge and consolidate the stock of the respective companies, making one joint stock company of the railroads thus connected upon such terms as may by

them be mutually agreed upon in accordance with the laws of the adjoining State or Territory with whose road or roads connections are thus formed: *Provided*, that the consent of three-fourths of all the stockholders in amount in any road whose stock is proposed to be consolidated shall be obtained. Proviso.

SEC. 44. Every railroad company heretofore organized, or which may be hereafter organized under this act, or which may accept the same as is hereinbefore provided, is hereby empowered to extend their road into or through any other State or States, or Territory or Territories, under such regulations as may be prescribed by the laws of such State or States, or Territory or Territories through which said road may be extended; and the rights and privileges over said extension, in the construction and use of said railroads for the benefit of said company, and controlling and applying the assets of said company, shall be the same as if their railroads had been constructed wholly within this Territory or future State. May extend their roads into or through other States.

SEC. 45. Every railroad company heretofore organized, or which may be hereafter organized under this act, or which may accept the same as is hereinbefore provided, and which may have constructed or commenced the construction of their road so as to meet and connect with any other railroad in an adjoining State or Territory, at the boundary line of this Territory or future State, shall have the power to make such contracts and agreements with any such roads constructed in an adjoining State or Territory for the transportation of freight and passengers, or for the use of its said road, as to the board of directors may seem proper. May make contracts as to freight and passengers with roads in other States.

SEC. 46. Every railroad company shall have power and is hereby authorized to mortgage or execute deeds of trust of the whole or any part of their property and franchises, including any lands or other property granted to said company by the United States, to secure money borrowed by them for the construction and equipment of their roads, and may issue their corporate bonds in sums not less than five hundred dollars—secured by said mortgages or deeds of trust—payable to bearer or otherwise, and, if payable to bearer, negotiable by delivery, bearing interest at a rate not to exceed ten per cent. per annum, and convertible into stock, or not, as shall be plainly expressed on the face of each and every bond so issued by said company, and may sell them at such rates or prices as they may deem proper; and if said bonds should be sold below their nominal or par value they shall be valid and binding upon the company, and no plea of usury shall be put in or allowed by said company upon any suit or proceedings upon the May execute mortgages or deeds of trust.

same; the principal and interest on said bonds or either of them may be made payable within or without this Territory.

Such mortgages or deeds of trust to be a valid lien upon all property therein enumerated.

SEC. 47. Any mortgage or deed of trust made upon the lands, roads, or property of any railroad company, shall bind and be a valid lien upon all the property mentioned in such deed or mortgage, including rolling stock; and the purchaser under foreclosure of mortgage or trust deed shall have and enjoy all the rights of a purchaser on execution sale: *Provided*, that nothing contained in this act shall be so construed as in any manner to interfere with, change or modify the rights of this Territory or future State, or of the United States, to any lands granted by congress to this Territory or future State, or to said companies, or to transfer any right in said lands, otherwise than as subject to all the conditions imposed by the grant made by the United States.

Such mortgages may include property thereafter to be acquired.

SEC. 48. Said mortgages or deeds of trust may by their terms include and cover not only the property of the companies making them at the time of their date, but property, both real and personal, which may thereafter be acquired by them, together with all the material and property necessary for the use and operation of said road, and shall be as valid and effectual as if the property were in possession at the time of the execution thereof.

Mortgages to be recorded in each county through which the road passes.

SEC. 49. Said mortgages or deeds of trust shall be recorded in the office of the county clerk of each organized county through which said road mortgaged or deeded may run in this Territory or State, or wherever it may hold lands included in said mortgages or deeds of trust, and shall be notice to all the world of the rights of all parties under the same; and for this purpose, and to secure the rights of mortgagees or parties interested under deeds of trust so executed and recorded, the rolling stock, personal property and material necessary for operating the road of said company, belonging to said road, and appertaining thereto, shall be deemed a part of the road, and said mortgages and deeds so recorded, shall have the same effect, both as to notice and otherwise as to the real estate covered by them.

Trains to be run at regular times, &c.

SEC. 50. Every such railroad corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of passengers and freight, and shall take, transport and discharge all passengers to and from such stations as the trains stop, and property at, from or to all places and stations upon their said road, on the due payment of fare or freight bill.

SEC. 51. In case of the refusal by such corporation or their agents to take and transport any passenger or property, or to deliver the same or either of them, under the laws, rules and usages that regulate common carriers, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby with costs of suit.

Damages in case of refusal to carry freight and passengers.

SEC. 52. This act shall take effect and be in force from and after its passage and approval.

Approved February 8, 1864.

AN ACT

In Relation to Insurance Companies.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That it shall be the duty of each and every insurance company incorporated under the laws of this Territory, for the purpose of insuring property against fire, and marine losses, to file with the auditor of the Territory, within sixty days from the taking effect of this act, and with the county clerk of the county in which said company is located, a full and specific statement of the amount of cash paid in upon said stock, the amount of stock not paid for in cash; the amount secured by notes endorsed by third parties; the amount secured by mortgages or pledges of real estate; the names and residences of the stockholders in said company, with the amount of stock owned or held, set opposite the name of each; and if not all paid up in cash, the amount unsecured and the amount secured, specifying whether by real or personal security, also set opposite the names of each, the names of all the officers and agents of the company, wherever residing; the amount of policies issued by, and outstanding against the company, at the date of said report; the amount of premiums received by said company during the preceding six months; the amount of cash on hand; the amount of bills payable and receivable at the date of said statement; the amount of real estate owned by said company, where held and owned, in what manner such real estate became vested in said company, which report and statement shall be verified by the oath of the president and secretary of the company.

Insurance companies to file statement with Ter. Auditor and County Clerk—what said statement shall set forth.

SEC. 2. It shall be the duty of every such insurance company now created, or that may hereafter be created under the laws of this Territory, to file a semi-annual statement of the affairs of said company, with the auditor

Semi-annual statement to be filed with Ter. Auditor—what it shall contain.

of the Territory and with the county clerk of the county, where such company is located, on the first day of January and July in each year, which statements shall be verified by the oath of the secretary of the company, such statement shall contain:

First. The name and locality of the company.

Second. The amount of capital stock of said company.

Third. The amount of its capital stock paid up.

Fourth. The assets of the company, including:

1st. The amount of cash on hand.

2d. The amount of cash in hands of agents.

3rd. The real estate unincumbered.

4th. The bonds and notes of the company and how they are secured, with the rates of interest thereon, and whether given in payment of stock subscription, or for bona fide loans.

5th. Debts of company secured by mortgage.

6th. Debts otherwise secured.

7th. Debts for premiums.

8th. All other securities.

Fifth. The amount of liabilities due or not due to banks or other creditors by the company.

Sixth. Losses adjusted and due.

Seventh. Losses adjusted and not due.

Eighth. Losses unadjusted.

Ninth. Losses in suspense.

Tenth. All other claims against the company.

Eleventh. The greatest amount insured by any one risk.

Penalty in case of failure to file statements.

SEC. 3. A failure to comply with the provisions of the two preceding sections, shall subject the president and secretary of any company each, individually, to the penalty of one hundred dollars, to be recovered in an action at law in the name of any citizen of the Territory, one-half of the same to the use of the Territory and the other moiety to the use of the informer.

Insurance companies can not hold real estate; exceptions.

SEC. 4. It is declared unlawful for any insurance company in this Territory to purchase or hold any real estate, save what shall be necessary for the transaction of its legitimate business of insurance, and deeds and conveyances to said company, for any other purposes, are hereby declared to be void.

Foreign Insurance companies to obtain certificate of authority from Auditor—statement required—what it shall contain.

SEC. 5. That it shall not be lawful for any agent or agents of any insurance company, incorporated by any other State than the Territory of Nebraska, directly or indirectly to take risks or transact any business of insurance in this Territory without first procuring a certificate of authority from the auditor of the Territory, and before obtaining such certificate, such agent or agents shall furnish the auditor with a statement, under the oath of the

president or secretary of the company, from which he or they may act, which statement shall show,

- 1st. The name and locality of the company.
- 2d. The amount of its capital stock.
- 3rd. The amount of its capital stock paid up.
- 4th. The assets of the company, including—
 - 1st. The amount of cash on hand, and in the hands of agents and other persons.
 - 2d. The real estate unincumbered.
 - 3rd. The lands owned by the company, and how they are secured, with the rate of interest thereon.
 - 4th. The debts of the company secured by mortgage.
 - 5th. Debts otherwise secured.
 - 6th. Debts for premiums.
 - 7th. All other securities.
- 5th. The amount of liabilities due or not due to banks or other creditors by the company.
- 6th. Losses adjusted and due.
- 7th. Losses adjusted and not due.
- 8th. Losses unadjusted.
- 9th. Losses in suspense, waiting for further proof.
- 10th. All other claims against the company.
- 11th. The greatest amount insured by any one risk.
- 12th. The greatest amount allowed by the rules of the company to be insured in any one city, town or village.
- 13th. The greatest amount allowed to be insured in any one block.
- 14th. The act of incorporation of such company, which statement shall be filed in the office of said auditor, together with a written instrument under the seal of the company, signed by the president and secretary, authorizing such agent to acknowledge service of process for and in behalf of said company, consenting that service of process upon such agent shall be taken and held to be as valid as if served upon the company, according to the laws of the Territory, or any other State, and waiving all claims of errors by reason of such service, and no insurance company, or agents of any insurance company incorporated by any other State, shall transact any business of insurance in this Territory, unless such company is possessed of at least one hundred thousand dollars of actual capital invested in stocks of at least par value, or in bonds or mortgages on real estate, worth double the amount for which the same is mortgaged, and upon filing the aforesaid statement and instrument with the auditor of the Territory, and furnishing him with satisfactory evidence of such instrument, as aforesaid, it shall be the duty of said auditor to issue a certificate

thereof with authority to transact business of insurance, to the agent or agents applying for the same.

Additional statement required.

SEC. 6. It shall be unlawful for any incorporated company or association, partnership, firm or individual, or any member or agent or agents thereof, or for any agent or agents of any company incorporated by any foreign government, other than a State of this Union, to transact any business of insurance in this Territory without procuring a certificate of authority from the auditor of this Territory, such company, association, partnership, firm or individual or any agents or agents thereof having first filed, under oath, in the office of said auditor, a statement setting forth the charter or act of incorporation of any and every such incorporated company, and the by-laws, copartnership, agreement, articles of association of any and every such unincorporated company, association, partnership, or firm; and the name and residence of such individual, and the name and residences of the members of every such partnership or firm; and the matters required to be specified by the first section of this act, and the written authority therein mentioned and furnished evidence to the satisfaction of the auditor of the Territory, that said company has invested in stocks of some one or more of the States of this Union, or of the United States the amount of one hundred thousand dollars, and that such stocks are held by citizens of the United States, or in bonds or mortgages of real estate situated in the United States, fully securing the amount for which the same is mortgaged, or bonds of cities of the United States, the aggregate market value of the investment of the company, in which shall not be less than one hundred thousand dollars, and such incorporated company or unincorporated company, association, partnership, firm, or individual, or any agent or agents thereof filing said statement and furnishing evidences of investment, as aforesaid, shall be entitled to a certificate of authority for such body or individual, in like manner as is provided for in the first section of this act.

Statement to be renewed annually.

SEC. 7. The statement and evidences of investment required by this act, shall be renewed annually in the month of January of each year. The first statement to be made in sixty days from the taking effect of this act, and the auditor of the Territory upon being satisfied that the capital securities and investments remain secure, shall furnish a renewal of certificates as aforesaid, and the company, agent or agents obtaining such certificate, shall file the same, together with the statement upon which it was obtained or renewed, in the office of the clerk of the district court of the county in which such agent resides.

SEC. 8. Any person or firm in this Territory who shall receive or receipt for any money, on account of, or for any

contract of insurance made by him or them, or for any such insurance company or individual aforesaid, or who shall receive or receipt for money from other persons to be transmitted to any such company or individual aforesaid, for a policy or policies of insurance or any renewal thereof, although such policy or policies of insurance may not be signed by him or them, as agent or agents of such company, or who shall in any wise directly or indirectly, make or cause to be made any contract or contracts of insurance, for or on account of such company aforesaid, shall be deemed, to all intents and purposes, an agent or agents of such company, and shall be subject and liable to all the provisions of this act.

Who shall be deemed agents of companies.

SEC. 9. That copies of all papers required by this act, to be deposited in the office of the auditor of this Territory, certified under the hand of such auditor, to be true and correct copies of such paper be received as evidence in all courts and places, in the same manner and have the same force and effect as the original would have if produced.

Copies of all papers herein required, are to be received as evidence in courts.

SEC. 10. This act shall not be so construed as in any manner to apply to life insurance companies, but shall include without provisions, only the fire and fire and marine departments of any company that may have separate departments for life insurance, and fire and fire and marine insurance.

This act not to apply to life insurance companies.

SEC. 11. Any person or persons, violating the provisions of this act, shall upon conviction thereof, in any court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail not more than thirty days, or both at the discretion of the court, violations of the provisions of this act may be prosecuted by information filed by the prosecuting attorney of the proper county, or by indictment of the grand jury.

Violations of provisions of this act—penalty.

SEC. 12. Any insurance company complying with the provisions of this act, and securing the certificate of the auditor for any of its agents, shall not be required to furnish the single statement, and evidences required hereby for more than one of such agents, which being filed with the auditor of this Territory, shall be deemed a sufficient compliance for its free transaction of business in this Territory.

Companies only required to furnish single statement for more than one agent.

SEC. 13. If any insurance company, associated firm or individual, or their agent or agents having filed its or their statement as required by this act, and conformed to the requirements thereof, shall have on deposit in any other State or Territory, or elsewhere than in this Territory, any portion of its capital or earnings as a guarantee fund for the exclusive benefit or security of persons insured in such State or Territory, or other place, it shall be the duty of

Guarantee fund—requirements in case of special guarantee in other States.

the auditor of the Territory to withhold from such body or individual so alienating any such portion of their capital or resources, the certificates and authority in this act provided for, until such body or individual shall file with the auditor of the Territory, a statement duly verified by the oath or affirmation of the president or secretary of such incorporated company, or member of such incorporated company, associated, partnership or firm, or of such individual showing the amount of premiums received in this Territory, such company during the year ending on the first of January, next preceding the filing of said statement, and shall deposit in this Territory, in such manner as the auditor of the Territory shall direct, five per cent. of the amount received in money, or any solvent State or United States stocks of at least par value, or mortgages on real estate situated in this Territory, of at least double the value for which the same is mortgaged, which statement and deposit shall be so made from year to year, at the time of each revival or original grant of authority by said auditor, until the sum of forty thousand dollars is deposited as aforesaid, which said sum and every yearly part thereof deposited as aforesaid, shall be held under control of such auditor of the Territory, as a guarantee fund for the benefit of such persons as may be in any manner insured in their property, by such company in this Territory, and the same or any part of the sum so deposited, shall not be drawn out of the depositories, until all claims for losses or premiums, or risks unexpired, shall be paid and discharged, or until all deposits made in other States, Territories, or other places not within this Territory shall be withdrawn, and in case of the insolvency of any such company, the sums so deposited as aforesaid shall be applied by the auditor of the Territory pro tanto, towards the payment of all claims against such body or individual filed in his office, duly liquidated and authenticated, and losses and premiums or risks unpaid on policies issued within six months after such insolvency may occur, any such body or individual shall be deemed insolvent, upon failure to pay any undisputed loss insured against, within this Territory for the space of ninety days after final judgment for the amount of any loss so insured against, when no appeal shall have been taken from such judgment by either party, or other proceeding begun to vacate, modify, reverse or review such judgment, or to arrest the same, or to obtain a new trial, such body or individual shall be entitled to receive the interest or dividends, or such stocks so deposited from time to time as the same may become due. This section shall not apply to any of the aforesaid bodies or individuals who have made no such deposits, as in this section mentioned, elsewhere than in this Territory.

SEC. 14. Mutual insurance companies incorporated by any other State than the Territory of Nebraska, upon filing in the office of the auditor the act of incorporation of said company, together with a written instrument under seal of said company, signed by the president and secretary of said company under oath, certifying that said company is possessed of a capital of at least one hundred thousand dollars, secured by lien on real estate, worth at cash valuation at least five times the amount of said capital, and not encumbered to more than one-fourth of said cash valuation, shall be entitled to a certificate from said auditor, with authority to transact business of insurance in this Territory, and said company shall be exempt from the provisions of this act, with the exception of the publication of statement and certificate of the auditor.

Mutual insurance companies exempt from provisions of this act, except as to publication of statement and certificate.

SEC. 15. It shall be the duty of the agent or agents in either of the foregoing sections mentioned, before taking any risks or transacting any business of insurance in this Territory, to file in the office of the clerk of the district court of the county of which he or they may desire to establish an agency for any such company, a copy of the statement required to be filed with the auditor of the Territory as aforesaid, together with a certificate of said auditor, which shall be carefully preserved for public inspection by said clerk, and said statement and certificate shall be published one week in one daily and four weeks in one weekly newspaper printed and published in the county in which such agent or agents has or have his or their office of business as such agent or agents; and if no daily paper published in such county, then such publication shall be sufficient if made in one weekly newspaper as aforesaid, but if no weekly newspaper be printed or published in such county, then such publication shall be made in one weekly newspaper of this Territory of most general circulation in such county.

Statement to be filed with auditor and published.

SEC. 16. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To regulate Practice and Proceedings in Chancery.

COMMENCEMENT OF ACTIONS.

Actions—how
commenced.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* All actions in chancery shall be commenced by filing in the office of the Register of the proper court a bill of complaint, setting forth the nature of the complaint agreeably to the usages and practice of courts of equity, and causing a subpoena to be issued thereon, except as hereinafter provided for service on non-residents.

The subpoena—
to whom di-
rected—contents

SEC. 2. The subpoena shall be issued and signed by the register of the said court, under the seal thereof, dated on the day it is issued; it shall run in the name of the Territory of Nebraska, and shall be directed to the defendant or defendants named in the bill, requiring him or them to appear and answer the said bill on or before the day therein named as hereinafter provided. If one or more defendants reside in any other county of this Territory than that in which the action is rightly brought, then, on request of the complainant or complainants, subpoena may be issued as aforesaid against such defendant or defendants to such county. The subpoena may be served by the sheriff or coroner of the county in which the defendant or defendants to be sued reside, and if there be no sheriff or coroner in such county, then, by such person as the register shall designate: *Provided*, that whenever any subpoena shall be served by a person designated by such register, the person making such service shall verify the same by his own affidavit.

Return of
subpoena.

SEC. 3. The subpoena shall be made returnable on the second Monday after the day of its date, except when issued to any other county than that in which the action is brought. It may be made returnable, at the option of the party having it issued, on the third or fourth Monday after its date, and shall require the defendant or defendants therein named to appear and answer the bill on the third Monday after the date of the return thereof, and the day of the month on which the defendant is required to answer the bill shall be inserted in the subpoena.

SERVICE AND RETURN OF SUBPŒNA.

SEC. 4. Service of subpœna shall be made by delivering ^{Service of subpœna.} a certified copy thereof to the defendant or each defendant personally, or by leaving one at his usual place of residence, at any time before the return day. The return must state the time and manner of service, and the officer or person serving the subpœna must make his return at the time therein stated. If the subpœna shall not be returned served on the defendant or defendants, or on any one or more of them on the return day thereof, the register shall, if required, issue *alias* or *pluries* subpœna against such defendant or defendants as the case may be.

SEC. 5. In actions against corporations, service may be ^{Service against corporations.} made upon the president, mayor, chairman of the board of managers, directors or trustees, or other chief officer; or if its chief officer is not found in the county, then, upon its secretary, cashier, clerk or managing agent; or if none of the aforesaid officers can be found, then by copy left at the office of the usual place of business of such corporation, and service of subpœna and return thereof shall be made at the time and in the manner provided in the last preceding section.

SEC. 6. If it shall be shown by the bill properly sworn ^{Service by publication.} to, or by affidavit filed in the office of the register, that the action relates to, or the subject thereof is real estate or personal property in this Territory, or that the defendant or defendants has or have claims in interest, actual or contingent, therein, or that the relief sought consists, wholly or partially, in excluding him or them from any interest therein, and that such defendant or defendants is or are non-residents of and service of subpœna can not be made upon him or them in this Territory, then, service on such defendant or defendants, who are non-resident, may, without issuance of subpœna, be made by publication of notice four consecutive weeks, in some newspaper regularly printed in the county in which the action is brought, and if no newspaper is printed in such county, then in some newspaper printed in this Territory in general circulation in said county; and such service shall be deemed complete when publication shall have been made in the manner and for the time prescribed as aforesaid, and shall be proved by the affidavit of the printer, or his foreman, or principal clerk, or other person knowing the fact. The notice of publication as aforesaid, shall state the court in which the bill is filed, the parties to the action, and shall contain a summary statement of the object and prayer of the bill, and shall require the defendant and defendants to appear and answer said bill on the third Monday after the completion of such service as aforesaid.

DEFAULT—ANSWER.

Default—answer
—process of
attachment.

SEC. 7. If the defendant or defendants shall fail to appear and file in the office of the register his or their answer, plea, demurrer or exceptions to the bill within the time hereinbefore required, after service is made by subpoena or by publication of notice, the complainant or complainants may in term time take and enter the default of such defendant or defendants, and thereupon the bill shall be taken *pro confesso* and as true, and the cause shall be proceeded in *ex parte*; and such decree shall be rendered or order made therein by the court, as the nature of the case may require, if the same can be done without answer. If the complainant or complainants require any discovery or answer to enable him or them to obtain a proper decree, he or they may, on leave of court, have process of attachment against the defendant or defendants to compel an answer, or may have sequestration of the property of such defendant or defendants, and have his or their demand paid out of the proceeds of the property sequestered: *Provided, however*, that for good cause shown on due notice to the adverse party, the court in term or a judge thereof, or master in vacation, may extend the time of pleading required as aforesaid.

Defendant's
answer.

SEC. 8. Every defendant shall fully answer all the allegations and interrogatories of the bill of complaint, except such as are not required to be answered by reason of exceptions, plea or demurrer thereto allowed, unless the court shall otherwise direct.

Insufficient
answer.

SEC. 9. When an answer shall be deemed insufficient, the defendant or defendants shall file a further answer, within such time as the court shall direct, and on failure thereof, the bill shall be taken *pro confesso* and as true; if such further answer shall likewise be adjudged insufficient, the defendant or defendants shall file a supplemental answer and pay all costs attendant thereon. If such supplemental answer shall be adjudged insufficient, the bill shall then be taken *pro confesso* and as true, and a decree according to the prayer thereof rendered against such defendant or defendants.

REPLICATION.

Replications to
be general.

SEC. 10. Replications shall be general, with like advantage to all parties as if special, but no replication shall set up new matter. If the answer is filed in term time, the replication shall be filed within three days after notice given to the complainant of the filing of such answer, or if filed in vacation, the replication shall be filed within ten

days after such notice, and such notice may be served by the party, his agent or council, or solicitor upon the complainant, his agent, council or solicitor. If the complainant is a non-resident and has no agent, council or solicitor resident in the county in which the action is pending, the service of such notice may be made by filing a copy thereof in the office of the register, and having a minute thereof made in the cause upon the appearance docket of the court.

SEC. 11. After replication is filed, the cause shall be deemed at issue. When cause shall be deemed at issue. In default of filing such replication within the time required in the last preceding section, the cause may be set for hearing on bill and answer, unless the court shall otherwise direct.

SEC. 12. In all cases where a decree or final order shall be made upon a bill taken *pro confesso*, and the defendant or defendants shall have been brought before the court by publication only, such non-resident defendants may, upon motion, in open court, have such decree or order opened for a hearing, upon such non-resident defendant or defendants showing to the satisfaction of the court, that he or they have a meritorious defence to the bill, and did not have actual notice of the pendency of the suit in season to make said defense; *Provided*, such motion be made within three years from the entering of such decree or final order; provided further, that infants, idiots, and insane persons shall have the right to have such decree or order opened at any time within three years after such disability shall be removed. When final order or decree may be opened.

AMENDMENTS.

SEC. 13. Parties may amend their bills, petitions, pleas and answers on such terms as the court may prescribe. Amendment of bills, &c.

VERIFICATION.

SEC. 14. The bill of complaint and the answer thereto, except when the affidavit to the answer is expressly waived by the bill, shall be verified by the affidavit of the party filing the same, or by his agent or solicitor. The verification to the bill, and also to the answer or other pleading when required to be made under oath, may be made by the agent or solicitor: Bill and answer to be verified—except, &c.

1st. When such party is a non-resident of or is absent from the county in which the action is brought.

2d. When all the facts are within the personal knowledge of the agent or solicitor.

3rd. When the party is an infant, or of unsound mind, or imprisoned.

Verification—
before [whom it
may be made.

SEC. 15. The verification of the bill, answer or other pleading may be made before and certified by a person authorized to administer an oath in the state, territory or foreign country in which the party may be or resides at the time. The official character of such officer, if out of this Territory, must be attested by the seal of some court of record within such state, territory or foreign country.

Waiver of an-
swer.

SEC. 16. When the complainant or complainants shall waive the necessity of the answer being made on the oath of the defendant or defendants, the answer shall have no other or greater force as evidence than the bill.

When bill is ta-
ken *pro confesso*,
complainant
may be sworn as
to facts.

SEC. 17. When a bill is taken *pro confesso*, before final decree is made, if deemed requisite, the court may order the complainant to produce documents and witnesses to prove the allegations of the bill, or may examine him on oath or affirmation touching the facts therein alleged.

PROCEEDINGS AGAINST INSOLVENTS.

When execution
is returned un-
satisfied, bill in
chancery may be
filed—lien.

SEC. 18. Whenever an execution shall have been issued against the property of any defendant, on a judgment at law or decree in equity, and shall have been returned unsatisfied, in whole or in part, the party issuing such execution may file a bill in chancery against such defendant or defendants, and any other person or persons, to compel the discovery of any real estate, personal property, money or other thing in action due to him or them, or held in trust for him or them; and from and after the date of the service of subpoena issued on such bill or the first publication of notice as hereinbefore required, as the case may be, the action shall be deemed pending, so as to charge all real estate, personal property, money or other thing in action belonging to or held in trust as aforesaid for said defendant or defendants, with a lien thereon, as in case of attachment at law, and the same shall be subject to the final decree or order of the court which shall be made in the cause.

Judgments may
be satisfied from
sale of property
discovered by
proceedings in
chancery.

SEC. 19. The court shall have power to compel such discovery as is provided in the last preceding section, and to decree satisfaction of the sum remaining due on such judgments or decrees out of the proceeds of the sale of any real estate or personal property, or out of any money or thing in action belonging to the defendant or defendants, which shall be discovered by the proceeding in chancery, and the court is empowered to make all necessary decrees for the sale of real estate or personal property, and to enforce the collection of all money or other thing in action, of such defendant or defendants discovered as aforesaid; *Provided*, that no answer made to any bill filed under this and the last preceding section shall be read in evidence

against the defendant or defendants on the trial of an indictment for the fraud charged in the bill.

ACTIONS NOT TO ABATE.

SEC. 20. No action shall abate by reason of the death, marriage or disability of any party if the cause of action survive and continue. In either case, the action may be revived and continued by or against the representative of such deceased, or disabled, or married party, by motion made in open court within one year after the death, marriage, or disability of the party, or afterwards by supplemental bill and service of subpoena and publication of notice thereof, according to the provisions of section four or section six, of this act, as the case may be. In case of any transfer of interest, the action may be continued in the name of the original party; or the court may allow the person to whom the interest is transferred to be substituted in the action by motion or supplemental bill as aforesaid.

Actions shall not abate by reason of death, &c. if cause continue

UNKNOWN PERSONS.

SEC. 21. In all actions in chancery and actions to obtain title to lands, if there be persons interested in the same, whose names are unknown, it shall be lawful to make such persons parties to such suits or proceedings by the name and description of persons unknown, or unknown heirs or devisees of any deceased person who has been interested in the subject matter of the action previous to his or her death; but in all such cases an affidavit shall be filed in the office of the register by the party desiring to make any unknown person a party, stating that the name of such persons are unknown to him, and that he has made diligent inquiry to ascertain the name or names of such unknown person or persons, and process shall be issued against all parties by the name and description given as aforesaid, and publication of notice, as is required in section six, shall be sufficient to authorize the court to hear and determine the action as though all parties had been sued by their proper names.

Service upon unknown persons; how made.

SEC. 22. All decrees, orders and proceedings made or had with respect to such unknown persons shall have the same effect and be as binding and conclusive upon them, as though such action or proceeding had been instituted against them by their proper names.

Orders, decrees, etc., against unknown persons to be valid and binding.

MASTER MAY EXECUTE DECREE.

SEC. 23. Whenever a decree shall be made in any suit in chancery, directing the execution of any decree or other

Court may appoint master to execute decree.

writing, and the party against whom the same shall have been entered, shall not comply therewith within the time required, it shall be lawful for the court by an order, to direct a master, or specially appoint a commissioner to execute the same. The execution thereof by such master or commissioner shall be as valid in law to pass, release or extinguish the right title and interest of the party on whose behalf it is executed, as if it had been executed by such party in person in conformity with such decree; and such deed or other writing, if it relate to land, shall be recorded in the office of the register of deeds of the county wherein the lands lie, in the same manner and with like effect as deeds so therein recorded.

OF SALE.

SEC. 24. In all cases where a sale of property is decreed, the court may direct the same to be made for cash, or on such credit and on such terms as it may deem best and most equitable to the interests of the several parties.

LIENS.

All decrees to be
lien upon real
estate for five
years.

SEC. 25. All decrees rendered for the payment of money and for the sale of real estate or personal property shall be, and retain a lien upon all real estate of the defendant or defendants within the county in which the action is brought for the period of five years; and if the amount of such decree or any balance thereof shall remain uncollected by the usual proceedings in chancery, the same may be collected by execution, as in cases of execution upon judgments at law.

NOTICE TO THIRD PERSONS.

Actions—when
deemed pending.

SEC. 26. When the subpoena has been served, or publication of notice is first made, the action is deemed pending, so as to charge third persons with notice of its pendency, and while pending, no interest can be acquired by third persons in the subject matter thereof, as against the complainant's right or title thereto.

CROSS BILL.

Defendant may
file cross bill
after answer.

SEC. 27. Any defendant may, after filing his answer, exhibit and file his cross bill containing interrogatories to the complainant or complainants, and call upon him or them to make answer thereto. In such case, the complainant or complainants shall be held to answer, plead, demur or except to such cross bill in the same manner and under

the same penalties that a defendant or defendants are hereinbefore required to answer, plead, demur or except to an original bill. If the cross bill is filed in term time, the complainant or complainants shall answer within such time as the court may order; if filed in vacation, the complainant or complainants shall answer such cross bill within the time hereinbefore prescribed for defendants to answer original bills, and the issuance, service and return of subpoena, or publication of notice in case of non-resident, shall be the same as hereinbefore provided in the commencement of actions in chancery.

SEC. 28. If the complainant or complainants shall fail to answer the allegations and interrogatories of the cross bill, his bill shall be dismissed with costs, or the new matter set out in the defendant's cross bill shall be taken *pro confesso* and as true, and a decree entered accordingly. If complainant fail to answer cross bill, his bill to be dismissed.

SEC. 29. The complainant or complainants shall not be compelled to file his or their answer to any cross bill until the defendant shall have filed a sufficient answer to the complainant's bill. When answer to cross bill unnecessary.

SEC. 30. No complainant shall be allowed to dismiss his bill, after a cross bill has been filed, without the consent of the defendant. When original bill shall not be dismissed.

SEC. 31. Where it is necessary for the defendant to bring a new party before the court, he may state it in his answer, and insert interrogatories therein for him to answer; and service upon such new party shall be in like manner as hereinbefore provided for service in other cases, and such new party shall answer within the time prescribed and in like manner and under the same penalties as defendants in other cases. New parties—how brought before court.

PROOFS.

SEC. 32. When issue is joined, either party may have an order from the court in term time, referring the cause to a Master of the county in which the action is pending, to hear, take and report the proofs of the parties. The Master, to whom the cause is thus referred shall, by order in each case, fix a time and place for the taking of such proofs, giving not less than five day's notice thereof to the parties, their counsel or solicitors, and the proofs shall be taken in the presence of the parties or their agents, or such of them as may attend; and the examination of witnesses shall be conducted, as near as may be, in the mode now used in common law courts. The deposition shall be reduced to writing by the Master, and shall be taken in form of interrogatories and answers, unless the parties agree that it may be taken in form of narrative, and when complete, shall be signed by the witness in the presence of the Court may appoint master to hear proofs.

parties or their counsel, or such of them as may attend, but if the witness refuse to sign his deposition, then the Master shall state the fact and sign the same. Any question or other matter of evidence which may be objected to, shall be noted by the Master at the time, stating the objection, but he shall not have power to decide on the competency, materiality or relevancy of the question or other matter of evidence. If either party shall fail to attend at the time and place of examination, the Master may proceed *ex parte*, or in his discretion may adjourn the examination to a future day, giving notice to the absent party or his solicitor, of such adjournment. The Master is empowered to issue subpoena to witnesses and process of attachment against such as make default, and to adjourn the examination and proceedings before him, from time to time, until the same is completed, subject, however, to the order of the court.

Special master.

SEC. 33. Upon the application of either party, the court may, in its discretion, appoint a special Master in any cause.

Depositions—
notice to adverse
party.

SEC. 34. The deposition of any witness residing in any other county in this Territory than that in which the action is pending, may be taken, upon notice, to the adverse party, stating the title of the cause, the name of the court in which the same is pending, the time and place of taking the deposition, and that the same will be used on the hearing of the cause. Such notice shall be served on the adverse party, his agent or attorney of record by delivery to said party, his agent or attorney a copy thereof, or by leaving a copy at his usual place of residence, and shall be served so as to allow said party sufficient time, by the usual route of travel to attend, and one day for preparation, exclusive of Sundays and the day of service, and the examination may, if so stated in the notice, be adjourned from day to day.

Depositions—
before whom
taken.

SEC. 35. Depositions taken under and by virtue of the last preceding section, may be taken before a judge or clerk of the supreme or district court, or before a justice of the peace, notary public, or mayor or chief magistrate of any city of this Territory.

Register may
issue commis-
sion to take de-
positions, in other
state or county.

SEC. 36. On application of the parties to an action, or of any one or more of them to the Register of the courts of the county in which the action is pending, the said register shall issue a commission or commissions to take the depositions of witnesses in any other county of this Territory, or in any state, territory or foreign country upon interrogatories filed in this office.

Notice to ad-
verse party on
application for
such commission

SEC. 37. Before the issuance of any such commission, the party applying therefor shall give ten day's notice to the adverse party of the filing of such interrogatories, and that unless cross interrogatories shall be filed in the office

of said register within that time, a commission will be issued *ex parte*. The party making the application shall name on his part a commissioner, with the name of the county, or city, or town and state, territory or foreign country, of his residence; and the adverse party, on filing cross interrogatories, may also name, on his part, a commissioner of the same place. The testimony may be taken before the commissioners, jointly, or before one of them, upon notice to the other, of the time and place of taking the same, and the fact of giving such notice must be stated in the return of the commissioner taking the same.

SEC. 38. The commissioner or commissioners thus designated and appointed, shall have full power and authority to administer oaths and affirmations to the witnesses or parties examined before him or them; to issue subpoena to said witnesses and issue process of attachment against such as make default.

Powers of such commissioner.

SEC. 39. When the party against whom the deposition is intended to be taken is a non-resident of this Territory, and has no agent or attorney of record in the county in which the action is pending, then, a copy of the notice required by section thirty-two for taking the deposition, or a copy of the notice required by section thirty-five of filing interrogatories, as the case may be, shall be filed in the office of the register of the court in which the action is pending, fifteen days prior to the time of taking the deposition or the issuance of the commission, and have a minute thereof and of the date of filing such copy entered on the appearance docket of said court in the cause.

Proceedings when party is non-resident.

SEC. 40. Every deposition taken under the provisions of this act, shall be written in the presence of the officer or person taking the same, either by such officer or person, the witness or some disinterested person, and subscribed by the witness.

Depositions—manner of taking them.

SEC. 41. The officer, commissioner or commissioners taking the deposition, shall annex thereto a certificate, showing:

Certificate to be annexed to depositions—what it shall specify.

1st. That the witness was first only sworn to testify the truth, the whole truth, and nothing but the truth.

2d. That the deposition was reduced to writing in his or their presence, by him or them, or by the witness or some disinterested person, naming him, and that the same was written in the presence of the witness and by him subscribed at the time of taking the same.

SEC. 42. The deposition so taken shall be sealed up and endorsed with the title of the cause and the name of the person taking the same, and by him addressed and transmitted to the register of the court where the action is pending. It shall remain sealed until opened by order of

Depositions to be sealed up—endorsement.

the court, or at the request of a party to the action or his counsel or solicitor.

May be read in evidence.

SEC. 43. The deposition taken as aforesaid, may be read in evidence on the trial or hearing of the cause in which it is taken, and also in any subsequent action wherein the same matter shall be in dispute between the same parties or persons, their heirs, executors, administrators or assigns.

Exceptions to depositions to be in writing.

SEC. 44. Exceptions to depositions taken as aforesaid, shall be in writing, specifying the grounds of objections, and shall be filed with the papers in the cause, and no exceptions shall be regarded except for incompetency, immateriality or irrelevancy, unless made in writing as aforesaid and filed in the office of the register before the commencement of the trial or hearing of the cause.

APPEAL.

Either party may appeal from district to supreme court.

SEC. 45. In all actions in chancery, either party may appeal from the decree rendered or final order made by the district court to the supreme court of this Territory. The party appealing shall, within thirty days from and after the date of the rendition of such decree or the making of such final order, file in the office of the register of the court in which the action is brought, a notice in writing of such appeal; and upon the filing of such notice as aforesaid and cause a minute thereof and of the date of such filing to be made in said cause upon the appearance docket of said court, the appeal shall be deemed properly taken.

No appeal to operate as a supersedeas, unless &c.

SEC. 46. No appeal taken as aforesaid shall operate as a supersedeas unless the appellant or appellants shall within the time aforesaid, execute or cause to be executed a bond, on his or their part, the adverse party, with one or more sureties, as follows:

1st. When the decree or final order appealed from, directs the payment of money, the bond shall be in double the amount of the decree or final order, conditioned that the appellant or appellants will prosecute such appeal without delay and pay all condemnation money and costs which may be found against him or them on the final determination of the cause by the supreme court.

2d. When the decree or final order directs the execution of a conveyance or other instrument, the bond shall be in such sum as may be prescribed by any district court of this Territory, or any judge thereof in vacation, conditioned that the appellant or appellants will prosecute such appeal without delay, and will abide and perform the decree which shall be rendered, or the final order which shall be made by the supreme court in the cause; but instead of such bond, the appellant or appellants may exe-

cute the conveyance or other instrument and deposit the same with the register of the court, to abide the decree or final order of the appellate court.

3d. When the decree or final order directs the sale or delivery of possession of real estate, the bond shall be in such sum as may be prescribed as last aforesaid, conditioned that the appellant or appellants will not, during the pendency of such appeal, commit or suffer to be committed any waste upon such real estate and will prosecute such appeal without delay, and abide and perform in all things the decree which shall be rendered, or the final order which shall be made by the supreme court in the cause.

4th. When the decree or final order directs the assignment or cancellation, or delivery of conveyances, documents or other instruments, the assignment or cancellation may be made, and the conveyance, documents or other instruments thus assigned or cancelled or to be delivered, may be placed in the custody of the register of the court in which the decree was rendered, or final order made to abide the decree which shall be rendered or the final order which shall be made by the supreme court in the cause, or the appellant or appellants may give bond as aforesaid in such sum as may be prescribed as aforesaid, conditioned that he or they will prosecute such appeal without delay, and abide and perform the decree which shall be rendered, or the final order which shall be made by the supreme court in the cause: *Provided*, that when the application to fix the amount of the bond hereinbefore required, in any case of appeal, is made to any district court or judge thereof, other than the district court in which, or the judge before whom the cause has been heard and decided, the party making such application shall give to the adverse party, his agent, counsel or solicitor, at least five day's notice in writing, of the time and place of making such application. Proviso—notice.

SEC. 47. Before any bond executed as aforesaid shall operate as a supersedeas, the execution of such bond and the sufficiency of the sureties therein must be approved by the court in which such decree was rendered, or final order made, or by the judge thereof, in vacation, or by the register of said court; and such approval must be endorsed upon the bond and signed by said court or person taking the same, and the bond filed in the office of the register for the adverse party. Bond to be approved by court before it shall operate as a supersedeas.

SEC. 48. The appellant or appellants shall, within six months, from and after the date of the filing in the register's office a notice of his appeal, procure from said register and file in the office of the clerk of the supreme court of this Territory a certified transcript of the proceedings Appellants to file transcript of cause in supreme court within six months.

had in the cause in the district court, containing the pleadings and the decree rendered, or final order made thereon, and all the depositions of record offered in evidence, and all other evidence of record offered, on the hearing of the cause, and have the cause properly docketed in the said supreme court; and on failure thereof, the decree rendered or final order made in the district court shall stand, and be proceeded in as if no appeal had been taken.

MISCELLANEOUS.

Who may commence actions in favor of infants. Actions not herein provided for—how commenced.

Actions now pending to be conducted to final decree as though this act had not been passed.

SEC. 49. Actions in chancery may be commenced and prosecuted by infants, either by guardian or next friend.

SEC. 50. All proceedings in actions in chancery not herein provided for, shall be agreeably to the rules and practice in courts in equity.

SEC. 51. All actions in chancery pending in any court of this Territory when this act takes effect, shall be prosecuted and conducted to final decree or order, in all respects as if this act had not been passed; but the provisions of this act shall apply to all such actions after the rendition of decree or the making of the order in such actions; *Provided*, that in all actions now pending in any court of this Territory, the depositions of witnesses in any county in this Territory other than that in which the action is pending, and in any State, Territory or foreign country, may be taken under and in pursuance of the provisions of this act.

Repealing clause SEC. 52. All acts and parts of act inconsistent with this act are hereby repealed.

SEC. 53. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

 AN ACT

To enable the Militia and Volunteers of this Territory when in the Military Service of the United States to Exercise the right of Suffrage.

All qualified electors may vote either within or without the Territory, if in the military service.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That all qualified electors of this Territory who shall be in the actual military service of the United States or of this Territory, either within this Territory or without the same on the second Tuesday in October in any year, shall be entitled

to exercise the right of suffrage at any general election to be held pursuant to any law of this Territory on that day, at the several posts, camps, or places where the regiment or battery of Artillery or part of a regiment not less than one company under a separate command, to which such electors belong, may be on that day as fully as if such electors were present at the places in this Territory where such elections may be held, and where such persons would be entitled to vote, any provisions of law now in force to the contrary notwithstanding; *Provided*, that this section shall not extend to and include any person in the regular or standing army of the United States, and *provided* further, that the word "company" as used in this act shall not be held or construed so as to prohibit the members of any company present for duty at any post, camp or place where such company may be stationed, from enjoying the privileges authorized by this act, although the members of said company so present shall be less in number than the minimum number required to organize a company.

Proviso as to soldiers in the regular army.

SEC. 2. To carry into effect the provisions of the preceding section, elections may be held at the several posts, camps or places in said section mentioned, which election shall be conducted so far as practicable, and not inconsistent with the provisions of this act, in the manner prescribed by the general election law of this Territory.

Elections, where held and how conducted.

SEC. 3. The vote shall be taken by companies; the three ranking officers in each company of infantry or cavalry or battery of artillery shall act as judges of election held under the provisions of this act. In case of the absence or inability or refusal to act, of any of the officers hereinbefore named, their duties as judges shall be performed by the officers next in rank the officer highest in rank acting as judge of election in such company shall be chairman of the board of judges. The judges of each company shall make a separate canvass and statement of the result in writing of the votes cast by such company as hereinafter provided. The regimental and staff officers of each regiment shall be entitled to vote at the polls opened in any company of the regiment to which they belong.

Vote to be taken by companies—who shall act as judges.

SEC. 4. The officers who shall act as judges under this act, shall appoint two electors to act as clerks of election.

judges shall appoint clerks.

SEC. 5. Previous to receiving any votes, the judges and clerks of election shall severally take an oath or affirmation that they will support the Constitution of the United States and the Organic Act of this Territory, and will perform their duties as judges and clerks according to law: said oath or affirmation shall be either printed or written, and shall be subscribed to by the persons taking the same, and may be administered by either of said judges, and

Judges and clerks shall be sworn.

shall be annexed to and returned with the poll books as hereinafter provided.

Judges shall determine when polls to be opened and closed.

SEC. 6. The polls of the election shall be opened and closed at such hours as the judges shall agree upon; *Provided*, that time shall be given for all voters in the company or battery to vote.

Each ballot shall have the county in which the voter resides written or printed at the top—also names of candidates &c.

SEC. 7. The ballots to be voted at the election held under this act shall have printed or written at the top of the ballot the name of the county in which the person offering to vote is a voter. Each ballot, in addition to the name of the county, shall have printed or written on it the names of the persons voted for, with a pertinent designation of the office, which he or they may be intended to fill; the ballot shall be folded (if folded at all) so as to show on the outside the name of the county, and the judges shall refuse to receive any ballot which does not thus show the name of the county. The ballot thus prepared shall be on one piece of paper, and all the ballots shall be deposited in one box; and it is the duty of the judges of the election to be satisfied that the person offering to vote is a legal voter of the county which is shown at the top of the ballot. In canvassing the votes thus cast, the judges shall reject all votes cast for any officer of a district (whether congressional or otherwise) not composed in part of the county named at the head of the ticket.

How ballot to be folded.

challenges.

SEC. 8. It shall be the duty of each judge of elections, and the privilege of each elector to challenge any person offering to vote, when he shall know or have any reason to suspect or believe that such person is not a qualified elector; and to every person challenged by any person, one of the judges shall administer an oath, that he will true answers make to all questions touching his residence and qualifications as an elector at the election, and the same questions, in substance, shall be put, and the same proceedings had as may be required at general elections in this Territory.

Clerks to keep a list of voters with residence, &c.

SEC. 9. The clerks shall keep correct poll lists, containing the names of the voters and the county of this Territory in which they severally have residence; which lists shall be certified to by the judges, or a majority of them, and clerks to be correct.

Votes to be canvassed by judges.

SEC. 10. After the polls are closed, the judges shall canvass the votes cast, and shall make a statement of the result in writing, which canvass and statement shall be made by counties, so far as practicable, in accordance with the provisions of law relating to general elections in this Territory. A copy of such statement, duly certified to be correct by the judges, or a majority of them, shall be transmitted to the Governor of this Territory or State

Shall forward same to governor and secretary.

with one of the poll lists; and a like copy, with the other poll list, shall be transmitted to the Secretary of this Territory or State, and the said judges of election shall, if practicable also transmit all the ballots cast at any such election, accompanying the statement herein provided to the Governor of the Territory or State, *Provided*, that the failure of said judges to forward said ballots, or the non-reception thereof by the Governor, shall not render such vote invalid.

SEC. 11. The Governor, secretary and auditor of this Territory, shall be and hereby are constituted a territorial board of canvassers, whose duty it shall be to meet within sixty days next after any general election and canvass the votes returned under this act, and perform other duties relating to the canvass as may be required in accordance with existing provisions of law so far as practicable. The said board shall also make a statement of the number of votes given and returned under this act, for members of the Council and House of Representatives, and for the several county officers, giving the names of the persons to whom such votes shall have been given for either of said offices, and the whole number of votes given for each. The said board of canvassers may commence the performance of their duties under this act, as soon as any of the returns herein provided to be made are received, and adjourn from time to time until the expiration of the said sixty days, at which time the canvass shall be closed.

Governor, secretary and auditor to canvass returns.

SEC. 12. Immediately after the completion of said canvass, the secretary shall transmit to the county clerk of each county a certified copy of the statement showing the votes cast for the members of the Council, and for the House of Representatives and the county officers for his county.

Secretary to transmit the canvass to county clerks.

SEC. 13. The county clerk shall within two days after receiving such statement, together with two disinterested house holders of the county chosen by him, open said returns and make abstracts of the votes cast for each several office at said election.

Clerk shall open and make abstracts of such returns.

SEC. 14. The county clerk shall not issue certificates of election, or declare the person having the highest number of votes duly elected, as provided in section twenty-seven of an act entitled "An act respecting elections," approved January 10th, A. D. 1862, nor shall the determination of the board of canvassers, as provided in section twenty-six of said act, be final, nor shall any certificate of election be given thereon, but in case the statement herein provided to be transmitted to the county clerk by the secretary of the Territory by section twelve of this act, shall not be received by such clerk within seventy days next

When certificates of election shall be issued by county clerk.

succeeding the election, such determination shall be final, and a certificate shall be issued thereon. But in case the statement shall be transmitted as required in section twelve within seventy days next after the election, then it shall be the duty of the board of canvassers as provided and constituted in said act entitled "An act respecting elections," approved January 10th, 1862, from said statement, and from the statement or abstract made in accordance with the twenty-sixth section of said act "respecting elections," to proceed to determine the persons by the greatest number of votes, elected as members of the Council and House of Representatives and to the several county offices.

When district is composed of more than one county.

SEC. 15. In case a council or representative district is composed of more than one county, the secretary of the Territory shall transmit a statement duly authenticated, showing the number of votes for members of the Council and House of Representatives in such district, and for whom given, to the several clerks of the counties first named in the act creating the districts. Said clerks on the reception of said statement, shall thereupon determine from such statement and from the abstract of votes as returned, and canvassed as provided in the twenty-ninth section of said act "respecting elections," the person or persons within such district having the highest number of votes, and also shall issue to such person or persons a certificate of election.

Canvass for territorial officers and delegate in congress.

SEC. 16. The canvass for Territorial officers, delegate in congress, and the issuing of certificates to those elected shall be conducted according to the laws now in force: *Provided*, that the canvass shall not be final, nor shall any certificate of election issue thereon until the return to the secretary of this Territory, of the statement as provided in this act, except in cases where no statement shall have been transmitted to the secretary within sixty days next succeeding the election.

Secretary of territory to prepare blanks under this act.

SEC. 17. It shall be the duty of the secretary of the Territory to prepare suitable blanks for carrying into effect the provisions of this act, and transmit a sufficient number, together with a copy of this act, with such extract from the general election laws as may be necessary to enable the judges of election to perform their duties under this act, to the captain or commanding officer of each company and battery of artillery with such instructions as he may deem necessary.

Informality not to invalidate elections under this act.

SEC. 18. No mere informality in the manner of carrying out or executing any of the provisions of this act shall invalidate any election held under the same, or authorize the judges of election or the Territorial or county canvass-

ers to reject the returns or to set the same aside: *Provided*, the provisions of this act are in substance complied with. Nor shall the failure of any regiment or company to vote invalidate the election.

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

Defining the Duties of County Surveyors.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That there shall be elected in each county, in this Territory, at the general election, in the year of our Lord one thousand eight hundred and sixty-four, and every two years thereafter, one county surveyor. County surveyor to be elected in 1864, and biennially thereafter.

SEC. 2. Each county surveyor so elected, previous to entering upon the duties of his office, shall take and subscribe an oath, before any person authorized to administer oaths, that he will faithfully and impartially discharge the duties of his office, to the best of his skill and ability, without favor or affection; which oath shall be endorsed upon his certificate of election. Shall take an oath of office.

SEC. 3. It shall be the duty of the county surveyor to make all surveys, within his county, that he may be called upon to make. Shall make all surveys in his county.

SEC. 4. That the county commissioners of each county, shall procure a suitable book, for the use of, and which shall be kept by, the county surveyor, and in which it shall be the duty of the county surveyor to truly record all surveys made by him, within twenty days after such surveys shall be made, and he shall, at the expiration of his term of office, deliver said book to his successor in office, or to the county clerk of the proper county. Commissioners to procure book for surveyor, in which all surveys shall be recorded.

SEC. 5. The record shall show the metes and bounds of all surveys, made by the surveyor, in his county; at whose request, and for whom the same was made, together with the names and oath of the chainmen employed, and shall be signed by the surveyor. What the record shall show.

SEC. 6. All necessary chainmen shall be employed by the person or persons causing the survey to be made. The chainmen shall be disinterested persons, and approved of, and sworn by, the surveyor, to measure justly and exactly, Chainmen to be sworn.

to the best of their knowledge and ability, all lines measured by them.

Duties of surveyor.

SEC. 7. It shall be the duty of the county surveyor to establish suitable and proper bounds and monuments at each corner or angle, in all surveys made by him, and when growing trees are convenient to such corner or angle, he shall mark two or more, with a blaze and notch facing the corner or angle, as witness trees to the same; and shall note the courses and distances of such witness trees, from the corner, together with a description of the size and kind of tree.

This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Repeal Sections One and Eleven of Chapter Five of an Act entitled "An Act respecting Practice and Proceedings in Courts of Justice, and for other purposes," Approved February 13th, 1857, and for other purposes.

Sections one and eleven of said act repealed.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That sections one and eleven of chapter five of an act entitled "An act respecting practice and proceedings in courts of justice, and for other purposes, approved February 13th, 1857," be, and the same are hereby repealed.

Clerk of supreme court, sheriff, coroner or constable shall not practice as attorney.

SEC. 2. No person shall be permitted to practice as an attorney, in any of the courts of this Territory, who holds the office of clerk of the supreme or district courts of this Territory; and that no person who holds the office of sheriff, coroner, constable, or jailor, shall be permitted to practice in any of the courts of the county in which they hold their respective offices.

Qualifications required of applicants for admission to the bar.

SEC. 3. No person shall be admitted to practice as an attorney in the supreme or district courts of this Territory, hereafter, unless such person shall have previously studied in the office of a practicing attorney, for the period of two years, and pass a satisfactory examination upon the principles of the common law, under the direction of the court to which application is made, and it is shown to the satisfaction of said court that such applicant sustains a good moral character; *Provided*, that any regularly licensed attorney, of good standing in any court of record in the United States, may be admitted to practice in any court in this Territory, without such examination; provided fur-

Proviso as to attorneys from other states, &c.

ther, that parties to suits may have the liberty of prosecuting and defending in their own behalf; and provided further, that every person heretofore admitted to practice law, upon the ground of good moral character, shall be required to pass an examination, under the provisions of this act, before any court of record in this Territory.

Parties to suits may prosecute and defend in their own behalf
Persons heretofore admitted on the ground of moral character, to be re-examined.
Conflicting acts repealed.

SEC. 4 All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Define the Duties of Territorial Auditor and School Commissioner and Territorial Treasurer.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the Territorial Auditor and School Commissioner shall reside and keep his office at the seat of government, and before entering upon the duties of his office, shall execute and deliver to the Governor, a bond to the Territory, in the sum of five thousand dollars, conditioned for the faithful performance of all duties required of him by this act, or which may be required of him by law, and take an oath of office before some judge or justice of the peace, or other officer authorized to administer oaths within the Territory, to be endorsed upon his commission, a copy of which, together with his bond, which shall be approved by the Governor, shall be filed in the office of the Secretary of the Territory.

Auditor side and keep his office at the capital.

Shall give bond

SEC. 2. The Auditor is declared to be the general accountant of the Territory, and the keeper of all public account books, accounts, vouchers, documents and all papers relating to the accounts and contracts of the Territory, and its revenue, debt, and fiscal affairs, not required by law to be placed in some other office or kept by some other officer or person.

Auditor declared the general accountant of the Territory.

SEC. 3. It shall be the duty of the Auditor to digest, prepare and report to the Legislative Assembly at the commencement of each annual session :

Duties of the Auditor.

First. A full and detailed statement of the condition of the treasury and the amount of the expenditures for the last fiscal year.

Shall submit annual statement; what it shall contain.

Second. A full and detailed statement of the public debt, showing fully all liabilities and resources of the Territory.

Same.

- Same. Third. Estimates of the revenue and expenditures for the next succeeding year.
- Same. Fourth. Such plans as he may deem expedient for the support of public credit, for lessening the public expenses, for using the public money to the best advantage, for promoting frugality and economy in public offices, and generally for the better management and more perfect understanding of the fiscal affairs of the Territory, and for securing uniformity and efficiency in the levying and collection of taxes, and systematizing the work to be done by officers having duties to perform under the revenue and school laws.
- Same. Fifth. A tabular statement showing separately the whole amount of each appropriation of money made by law, the amount paid under the same and the balance unexpended.
- Same. Sixth. A tabular statement showing separately the amount of money received into the Territorial treasury from all sources in the preceding fiscal year, the amount received from each county, and for what years paid, the amount of penalties and interest reported collected on delinquent taxes, and the balance due from each county on account of taxes for each year, for which such balances may be due.
- Same. Seventh. A tabular statement showing the whole number of acres of land and value, total value of town lots and the whole number and value of each item of taxable property returned by the several assessors, or county clerks, to the Territorial Board of Equalization.
- Further duties of Auditor. SEC. 4. It shall be the duty of the auditor:
- To draw warrants. First. To audit, adjust and settle all claims for services rendered, or expenditures made for the benefit of the Territory, provided such services are rendered or expenditures made by authority of law, except only such claims as may be expressly required by law to be audited and settled by other officers or persons.
- To settle with collectors of revenue. Second. To draw all warrants upon the treasury for money, except only in cases otherwise expressly provided for by law, and all warrants so drawn shall bear upon their face a reference to the law authorizing the drawing of the same, naming the fund out of which it shall be paid, and shall be countersigned by the Territorial Treasurer before it is delivered to the party in whose favor it is drawn.
- To correct errors, &c. Third. To audit, settle and adjust the accounts of all collectors of the Territorial revenues, and other holders of public money, who are required by law to pay the same into the Territorial treasury.
- Fourth. Whenever it is ascertained, that by mistake or otherwise, any county treasurer, or other person, has paid into the treasury any sum of money not due the Territory,

the auditor shall, on the Territorial treasurer's certificate that such sum has been paid to him, and that it was not due the Territory, refund to such county treasurer, or other person, the amount so paid, by drawing a warrant therefor, upon the Territorial treasury.

Fifth. To keep an account between the Territory and the Territorial treasurer, charging him with all amounts by him received, and giving him credit for all sums by him paid on account of indebtedness, redeemed or otherwise, in accordance with law.

To keep an account between the Territory and the Territorial Treasurer.

Sixth. To keep an account of all debts and credits between the Territory and the several States, and the United States, and with each county in the Territory.

To keep accounts between the Territory and States or United States.

Seventh. To direct prosecutions in the name of the Territory for all official delinquencies in relation to the assessment, collection and payment of the revenue; against all persons who by any means became possessed of public money or property due or belong to the Territory, and fail to pay over or deliver the same, and against all debtors of the Territory; and it shall be the duty of the auditor, if necessary, to employ a competent attorney to prosecute all such suits, who shall be allowed for his services such fees as the district judge of the proper district shall direct to be paid out of the territorial treasury on the warrant of the auditor.

To direct prosecutions for official delinquencies.

Eighth. To procure from the proper officers an abstract and description of all lands within the Territory not yet procured, and annually hereafter, abstracts and descriptions of such lands as shall become taxable; the expense of all which shall be paid out of the territorial treasury, and which lists the auditor shall transmit to the clerks of the counties in which such lands may be situated.

To procure abstracts of lands, &c.

Ninth. To give information in writing to either house of the legislative assembly, whenever required, upon any subject relating to the fiscal affairs of the Territory, or in regard to any duty of his office.

To give information to legislature.

Tenth. To furnish offices for himself and the territorial treasurer, and all fuel, lights, books, blanks, forms, paper and stationery required for the proper discharge of the duties of their offices, and also such books, blanks, &c., as may be necessary for the use of county clerks, treasurers, assessors or other officers having duties to perform under the revenue and school laws, which shall be sent upon the requisition of the county commissioners, to the clerks of the proper counties for distribution to the several officers; the expense of all which shall be paid out of the territorial treasury.

To furnish offices &c., for himself and territorial treasurer.

SEC. 5. All county treasurers or other persons who are by law required to make settlements or pay money into the territorial treasury at certain specified times, shall, on

Shall settle with county treasurers, &c.

or before such date, exhibit their accounts and vouchers to the territorial auditor, who shall, as soon as practicable, examine, adjust and settle such accounts, and report to the territorial treasurer the balance found due the Territory; and if any county treasurer or other person so required by law to pay funds into the territorial treasury, shall fail to make the settlement herein required, at the proper time, or to pay the amount so found due, to the territorial treasurer, and produce his receipt to the auditor within ten days after the settlement above required, the delinquent shall forfeit to the Territory all collection fees and mileage allowed by law, and also a penalty of ten per cent. on the amount wrongfully withheld, and interest on the whole at the rate of fifteen per cent. per annum, from the time the same should have been paid until actual payment, and the auditor shall charge such delinquent accordingly, and the whole amount of principal and forfeiture may be recovered by action on the official bond of the delinquent or otherwise, according to law.

Shall examine
all claims
against the
Territory.

SEC. 6. All persons having claims against the Territory shall exhibit the same, with the evidence in support thereof, to the auditor, to be audited, settled and allowed within two years after such claims shall accrue, and not afterward, and in all suits brought in behalf of the Territory, no debt or claim shall be allowed against the Territory as a setoff, but such as has been exhibited to the auditor, and by him allowed or disallowed, except only in cases where it shall be proved to the satisfaction of the court, that the defendant at the time of trial is in possession of vouchers which he could not produce to the auditor, or that he was prevented from exhibiting the claim to the auditor by absence from the Territory, sickness or unavoidable accident, provided the auditor shall in no case audit a claim or setoff which is not provided by law.

May examine
parties under
oath.

SEC. 7. The auditor, whenever he may think it necessary to the proper settlement of any account, may examine the parties, witnesses or others, on oath or affirmation, touching any matter material to be known in the settlement of such account.

Accounts, &c., to
be presented at
auditor's office—
copies of same.

SEC. 8. All accounts, vouchers and documents, settled or to be settled by the auditor, shall be preserved in his office, and copies thereof authenticated by his official seal, shall be given to any persons interested therein, who shall require the same, on the payment to the auditor of ten cents for every one hundred words in such copies.

In what cases
warrants may be
drawn on the
treasury.

SEC. 9. In all cases of grants, salaries, pay and expenses ascertained and allowed by law, found due to individuals from the Territory, when audited, the auditor shall draw warrants upon the treasury for the amount, but in cases of claims, the adjustment and payment of which are not pro-

vided for by law, no warrant shall be drawn by the auditor or countersigned or paid by the territorial treasurer, but all such claims shall be reported to the next legislative assembly with such recommendation as the auditor may deem just.

SEC. 10. If any person interested shall be dissatisfied with the decision of the auditor on any claim, account or credit, it shall be the duty of the auditor, at the request of such person, to refer the same, with the reason for his decision, to the legislative assembly.

Decisions of the auditor may be referred to the legislature.

SEC. 11. The auditor shall report to the legislative assembly within ten days after the commencement of each regular session, a list of all county treasurers and other persons holding the public money, whose accounts remain unsettled for six months after they should have been settled according to law, or remain unsettled at the close of the fiscal year, with the reason, if any, therefor.

Auditor to report to legislature all county treasurers who have failed to settle.

SEC. 12. The auditor shall receive for his services as auditor and school commissioner, an annual salary of nine hundred dollars, to be audited by the territorial treasurer, and paid by him out of any money in the treasury.

To receive an annual salary of \$900.

SEC. 13. The auditor shall have power to administer all oaths or affirmations required by law in matters pertaining to the duties of his office, and may do and perform all acts or duties authorized to be performed by notaries public by the laws of the Territory, subject however to such restriction provided for by law for notaries.

Shall have power to administer oaths in matters pertaining to his office.

SEC. 14. All the books, papers, letters and transactions pertaining to the office of auditor, shall be open to the inspection of a committee of the legislative assembly, or either branch thereof, who shall examine and settle all the auditor's accounts.

His books, papers, &c., open to inspection of legislature.

SEC. 15. The auditor shall have power to appoint a deputy, who shall give a bond to the Territory of Nebraska, with good and sufficient security, in the same sum required of the auditor, which bond shall be approved by the governor, and deposited with the secretary of the Territory, and when so appointed, the deputy may do and perform, in the absence of the auditor, such acts herein authorized and required of the auditor, as the auditor may authorize him to do, subject to the same restrictions: *Provided, however, that the Territory shall not be liable or pay any salary to such deputy, other than the salary provided for the auditor for his services, unless allowed by the legislative assembly.*

May appoint a deputy.

Proviso as to pay of deputy.

SEC. 16. The auditor shall keep a seal of office for the authentication of all papers, writings and documents required to be certified by him, and copies so authenticated and certified, of all papers and documented lawfully deposited in his office, shall be received in evidence as the original.

Auditor to keep a seal.

Treasurer shall
keep office at
capital—shall
give bond, &c.

SEC. 17. The territorial treasurer shall reside and keep his office at the seat of government, and before entering upon the duties of his office, shall execute and deliver to the governor, a bond to the Territory, in the sum of twenty thousand dollars, to be approved by him, conditioned for the faithful performance of his duties according to law, and to pay over all moneys at such times as may be required of him by law, and take an oath of office before some judge, justice of the peace or other officer authorized to administer oaths within the Territory, to be indorsed on his commission, a copy of which, together with his bond, shall be filed in the office of the secretary of the Territory.

Duties of
treasurer.

SEC. 18. It shall be the duty of the territorial treasurer,

First. To receive and keep all moneys of the Territory, not expressly required to be received and kept by some other person.

Same.

Second. To disburse the public money upon warrants drawn upon the territorial treasury according to law, and not otherwise.

Same.

Third. To keep a just, true and comprehensive account of all moneys received and disbursed.

Same.

Fourth. To examine all warrants drawn by the auditor, and if there is sufficient money standing to the credit of the fund against which the warrant is drawn, to pay the same, he shall countersign it and charge against such fund; but if there is not money sufficient to pay the warrant standing to the credit of the fund, he shall reject it, and shall neither countersign or pay it, and no territorial warrant hereafter issued shall be valid without being countersigned by the treasurer as by this act provided.

Same.

Fifth. To keep a just account with each fund and each head of appropriation made by law, and the warrants drawn against them.

Same.

Sixth. To render a full statement to the auditor of all moneys received by him from whatever source; if on account of revenue, for what years, of all penalty and interest on delinquent taxes reported to or accounted for to him, and of all disbursements of public funds, with a list in numerical order of all warrants redeemed, the name of the payee, amount, interest and total amount allowed thereon, with the amount of the balance of the several funds unexpended, which statement shall be made on the first day of December, March, June and September, and oftener if required.

Same.

Seventh. To report to the legislative assembly as soon as practicable, but within ten days after the commencement of each regular session, a detailed statement of the condition of the treasury and its operations for the preceding fiscal year.

Same

Eighth. To give information in writing to either house

of the legislative assembly whenever required, upon any subject connected with the treasury or touching any duty of his office.

Ninth. He shall account for and pay over all moneys ^{Same.} received by him as such treasurer, to his successor in office, and deliver all books, vouchers and effects of office to him, and such successor shall receipt therefor.

SEC. 19. All the books, papers, letters and transactions pertaining to the office of treasurer, shall be open to the inspection of a committee of the legislative assembly, or either branch thereof, to examine and settle all accounts, and to count all moneys; and when the successor of any such treasurer shall be elected and qualified, the territorial auditor shall examine and settle all the accounts of such treasurer, remaining unsettled, and give him a certified statement showing the balance of moneys, securities and effects, for which he is accountable, and which have been delivered to his successor, and report the same to the legislative assembly. ^{His books, papers, &c., to be open to inspection of legislature.}

SEC. 20. The treasurer shall grant duplicate receipts ^{Shall give duplicate receipts for money paid into treasury.} under the seal of his office, for all sums of money which shall be paid into the treasury, and the person receiving the same shall deposit one of them with the auditor, who shall credit such person accordingly, and charge the amount to the territorial treasurer.

SEC. 21. The treasurer shall have power to administer ^{May administer oaths in certain cases.} all oaths required by law, in matters pertaining to the duties of his office.

SEC. 22. The treasurer shall keep a seal of office for the authentication of all papers, writings and documents required by law to be certified by him, and copies so authenticated and certified, of all papers and documents lawfully deposited in his office, shall be received in evidence, the same as the original papers and documents. ^{Shall keep a seal of office.}

SEC. 23. If the territorial treasurer shall willfully refuse or neglect to pay any warrant lawfully drawn upon the treasury, when the money for the payment of the same is in the treasury, he shall forfeit and pay fourfold the amount, to be recovered by action against the treasurer and his sureties, on his official bond or otherwise, he shall also suffer such punishment as the law may provide. ^{Penalty for refusal to pay a warrant when there is a fund for that purpose in his hands.}

SEC. 24. The treasurer shall have power to appoint a ^{May appoint a deputy.} deputy, who shall give a bond to the Territory of Nebraska, with good and sufficient security, to be approved by the governor, in the sum of ten thousand dollars, which bond, together with a copy of his appointment and oath of office, the deputy shall deposit in the office of the secretary of the Territory, and the said deputy may do and perform, in the absence of the treasurer, all of the acts and duties that he may be authorized to perform by the treasurer, subject to the

Proviso as to
pay.

Annual salary of
treasurer \$400.

Acts repealed if
inconsistent
with this.
Saving clause.

same restrictions as the treasurer, and the treasurer shall be responsible for all the official acts of his deputy: *Provided, however*, that such deputy shall not receive any compensation for his services rendered, unless allowed by law, other than the salary allowed to the treasurer by law.

SEC. 25. The treasurer shall receive an annual salary of four hundred dollars, to be audited and allowed by the auditor.

SEC. 26. All acts and parts of acts, so far as the same are inconsistent with the provisions of this act, are hereby repealed: *Provided*, that any liability which the said auditor and school commissioner or treasurer may have incurred prior to the passage of this act, under the laws heretofore existing, may be prosecuted, and the amount collected in the same manner as though this act had never been passed.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To amend an act entitled "An act to provide for an estray law," approved January 11th, 1861.

Sec. 1 of said act
amended.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the first section of the aforesaid act shall be amended by substituting the word "householder" for the word "freeholder," wherever the same may occur.

When an estray
to be the prop-
erty of the taker
up.

Proceedings if
the estray be a
horse, mule, ass,
bull, cow or
steer over two
years old.

SEC. 2. The sixth section of the act aforesaid, shall be so amended as to read, when an estray if it be a sheep, swine or calf under the age of one year, has not been reclaimed within six months after the advertisement of the same, it shall become the property of the person taking it up, without further proceedings. If the estray be a horse, mule, ass, bull, cow or steer over the age of two years, it must be reclaimed within six months from the time it was first advertised. If the estray is an animal over the age of one year, and not over the age of two years, it must be reclaimed within three months from the time it was first advertised. If any estray included in the two last named classes, shall not be reclaimed within the time specified, respectively, the person taking up the same shall notify a justice of the peace of the county where said estray was taken up, who shall appoint two disinterested persons and administer to them an oath (or affirmation) to faithfully

and truly appraise said estray, and said persons upon actual view of said property shall appraise the same at its true value, and make due return thereof in writing to said justice, and said justice shall appoint a day of sale, and cause notices of the time and place of sale to be published at least three weeks consecutively, before the day of sale, in a newspaper printed in said county, and by posting up written or printed notices in three public places in the precinct where said estray is to be sold; and in case there is no newspaper printed in said county, there shall be three additional written or printed notices posted up at the county seat in said county, and on the day appointed, said estray shall be sold to the highest bidder, in cash, and the proceeds thereof, after deducting the costs of the proceedings and expenses of keeping said estray, shall be paid to the county treasurer within ten days after the sale, subject to the order of the owner, *Provided*, the owner of such estray shall establish his ownership to the same, to the satisfaction of the county commissioners of said county, within one year from the day of sale, and if said balance is not so claimed within the time specified, it shall be placed by said treasurer to the credit of the general school fund of said county.

SEC. 3. Any person or persons violating any of the provisions of this act, or of the act to which this is amendatory, shall forfeit and pay a fine of not less than twenty, nor more than one hundred dollars, upon conviction thereof before any justice of the peace, of the county in which the offense is committed. Penalty for a violation of provisions of this act.

SEC. 4. The fees and expenses of the proceedings relating to such estray, shall be paid by the person taking up the same, if required, and he shall recover the same back out of the proceeds of said sale. Expenses—by whom paid.

SEC. 5. Sections ten, eleven and fourteen of the act to which this act is amendatory, and all other acts and parts of acts conflicting with this act are hereby repealed. Conflicting section and acts repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 12, 1864.

AN ACT.

To restrain Buck Sheep from running at large between the fifteenth of July, and the fifteenth of November in each year.

Buck sheep restrained from running at large from 15th July to 15th Nov.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That hereafter it shall be unlawful for any person who is the owner or keeper of any buck sheep, to permit such sheep to run at large in the Territory of Nebraska, between the fifteenth day of July, and the fifteenth day of November in each year.

Penalty for violation of foregoing section.

SEC. 2. Any person violating the provisions of the foregoing section, shall upon conviction before any court of competent jurisdiction, be fined in any sum not less than five dollars, nor exceeding twenty dollars, and shall pay costs of prosecution.

Further penalty.

SEC. 3. Any person being guilty of a violation of the provisions of this act, shall, in addition to the penalty prescribed in section two, (2) be liable for all damages which may be committed, the same to be recovered by civil suit before any proper judicial tribunal.

Approved February 12, 1864.

AN ACT.

To amend an act entitled "An act to protect game in the Territory of Nebraska."

Section one of said act amended.

Protection of deer, elk, antelope or fawn.

Grouse—

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section one of an act entitled "An act to protect game in the Territory of Nebraska," be, and the same is hereby amended so as to read as follows: That it shall be unlawful for any person in the Territory of Nebraska, to kill, ensnare or trap any wild deer, elk, antelope or fawn, between the first day of January and the first day of September in each year. It shall also be unlawful for any person in said Territory to kill, ensnare or trap any wild grouse, between the first day of March and the fifteenth day of July in each year.

SEC. 2. That said section one, of the act to which this act is amendatory, and all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed.

Conflicting section and acts repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 12, 1864.

AN ACT

For the Relief of certain Counties.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That in all cases where any county has overpaid to the Territory of Nebraska, any amount of territorial taxes, or revenue, for the years one thousand eight hundred and fifty-nine and one thousand eight hundred and sixty, or either of said years the territorial auditor, upon settlement with such county or counties, with the amount so overpaid upon any delinquency or delinquencies of territorial revenue of such county or counties, for the years 1859 or 1860, and if any balance still remain to the credit of such county or counties, to draw his warrant for the same in favor of such county or counties to whom such amount or sums may be due.

Auditor authorized to refund to counties where they have overpaid taxes for certain years.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To amend Section Seventeen of "An Act to further prescribe the duties of County Treasurers, Approved January 10th, 1862.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section seventeen of "An act to further prescribe the duties of county treasurers," approved January 10th, 1862, be amended so as to read after the word, provided, in the tenth line, that if such appointment shall not be made more than twenty days before the annual election thereafter, then, in that

Sec. 17 of "An act to prescribe the duties of county treasurers, amended.

Appointments of Treasurer made not more than twenty

days previous
to annual elec-
tion, to hold
good till next
annual election.

case, the treasurer so appointed shall hold his office until the next annual election after his appointment and until his successor is elected and qualified.

SEC. 2. This act to be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Regulate Actions Relative to Real Estate, in certain cases.

Who may bring
actions in chan-
cery.

Proviso.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That an action in chancery may be brought and prosecuted to final decree, judgment or order, and all necessary subsequent proceedings thereon, in order to carry into effect such decree, judgment or order, may be had by any person who holds an absolute title to real estate against any person who claims an adverse estate or interest therein for the purpose of determining such estate or interest; *Provided, however,* that the person claiming such adverse estate, or interest, is not in the possession of the property; and provided further, that the provisions of this act shall not apply to the settlement, partition or division of real estate among the heirs of a decedant, where the same is provided for by the intestate laws of this Territory.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Authorize the Governor of this Territory to offer Rewards for the Apprehension of Criminals.

Sheriff or coro-
ner to give no-
tice to Governor
when a murder
has been com-
mitted, and the
murderer is at
large.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That whenever it shall be brought to the knowledge of the coroner or sheriff of any county, in this Territory, that a murder has been committed within their respective counties, and the person or persons committing such murder are unknown, or if known have fled from justice, it shall be the duty of the coroner or sheriff to make the same known to the Governor

of this Territory, together with such facts as may have come to his knowledge, going to show by whom such murder was committed and the whereabouts of the murderer.

SEC. 2. Upon the receipt of the information as prescribed in the preceding section, the Governor of the Territory shall issue his proclamation, offering such reward, not exceeding two hundred dollars, as he shall deem proper for the arrest of the person or persons committing said crime, and the delivery of said person or persons to the sheriff or jailor of the county where said crime was committed.

Governor shall issue his proclamation offering a reward for the arrest of the murderer.

SEC. 3. Upon the trial of any person, for whom such reward has been offered, if the presiding judge shall, under his hand, and seal of the court certify to the Governor that the person arrested and indicted committed the acts charged in the indictment, the person or persons making the arrest, shall be entitled to the reward.

In what case the person making the arrest shall secure the reward.

SEC. 4. The Governor, upon the presentation of the certificate, as provided for in the third section of this act, shall give the person holding said certificate, an order on the Auditor of the Territory, who shall issue a warrant for the amount.

Rewards—how paid.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Provide for Special Terms of the Supreme Court.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That an act entitled "An act to provide for special terms of the supreme court," approved January 11th, 1861, also section four of an act entitled "An act to authorize holding special terms of the district court, in certain cases," approved January 9th, 1861, also section two of an act entitled "An act respecting practice and proceedings in courts of justice, and for other purposes," approved February 13th, 1857, and all other acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed.

Certain acts repealed.

SEC. 2. The judges of the supreme court of this Territory, or a majority of them, are hereby authorized to appoint and hold a special term of said court, at such time as they may designate, for disposing of the unfinished business of any general term of said court, and may appoint

Judges of the supreme court may appoint special term—notice to be published.

one special term of said court in any one year for general or special purposes; and shall cause notices thereof, and of the purposes for which it shall be holden, to be published in one newspaper, at the city of Omaha, and in one newspaper at Nebraska City, at least one month previous to the first day of said term.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To amend Section Three of Chapter Thirty-five of an act entitled "An Act respecting Practice and Proceedings in Courts of Justice, and for other purposes," Approved February 13th, 1857, and for other purposes.

Sec. 3 of chap.
35 of said act
amended.

In what cases
judges of pro-
bate shall not
act.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section three of chapter thirty-five of an act entitled "An act respecting practice and proceedings in courts of justice, and for other purposes, approved February 13th, 1857, be, and the same is hereby amended, so as to read after the word law, in said section three, as follows: *Provided*, no judge of probate shall act in any case or matter, where he is next of kin to the deceased, nor where he is legatee or devisee under a will, nor where he is named as executor or trustee in a will, or one of the subscribing witnesses thereto, nor where he is so related to any party in interest, in any case before him, by consanguinity or affinity, or has such an interest therein as would exclude him from acting as a juror in such case or matter, nor where he has acted as attorney or counsel in any case or matter before him.

In case judge is
disqualified the
county commis-
sioners shall ap-
point a person to
act.

SEC. 2. When any judge of probate shall be disqualified from acting in any case or matter, before him, or is temporarily absent from his county, the county commissioners of such county may appoint a competent and disinterested person to act in the place of such disqualified or absent judge, in such case or other matter during such absence or disqualification, who shall give bonds in the same manner and possess the same powers, and be subject to the same duties, restrictions and liabilities therein, as are prescribed by law respecting judges of probate.

Appointee to
give bond.

Chapters 37, 38,
39, 40, 41, 42, 43,
47 and 48 of gen-
eral code repeal-
ed.

SEC. 3. Chapters thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-five, forty-six, forty-seven, and forty-eight, of an act entitled "An act for revising, consolidating and preparing a general code for the Territory of Ne-

braska, approved January 26th, 1856, and all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To amend an Act entitled "An Act to Prevent overdrawng Public Funds, in Counties, and to compel County Commissioners to give Bonds.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That an act to prevent overdrawng public funds, in counties, and to compel county commissioners to give bonds," approved January 13th, 1860, be so amended as to read as follows: Act approved January 13, 1860, amended.

That every county commissioner, hereafter elected or appointed, shall give bonds to the county, conditional, that he shall faithfully fulfil the duties of his office, in the sum of two thousand dollars, and it shall be unlawful for any such commissioner to act prior to the time of giving such bonds, and it shall be the duty of all commissioners heretofore elected, and who have not given bonds, to give the same within ninety days after the passage of this act. County commissioners to give bonds.

SEC. 2. That section seven (7) of said act, be, and the same is hereby repealed. Sec. 7 of said act repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Regulate Weights and Measures.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the standard of weights and linear measures shall be the same as that established by act of Congress for the several states, except that the tun shall consist of two thousand pounds. Standard to be same as that established by act of Congress—except as to tun.

SEC. 2. A bushel shall consist of two thousand one hundred and fifty cubic inches. The half bushel, peck, and The bushel.

half peck, shall consist of the proper division and subdivisions of a bushel.

The gallon. SEC. 3. A gallon shall consist of two hundred and thirty-one cubic inches.

The pound. SEC. 4. A pound avoirdupois shall consist of seven thousand grains in Troy weight.

No. of pounds to the bushel of articles enumerated. SEC. 5. A bushel of each of the articles enumerated in this section, shall consist of the number of pounds respectively affixed to each, viz :

1.	Apples, dried, per bushel,-----	24	pounds.
2.	Barley,-----	48	"
3.	Beans, castor,-----	46	"
4.	Beans, white,-----	60	"
5.	Bran,-----	20	"
6.	Buckwheat,-----	52	"
7.	Coal, stone,-----	80	"
8.	Corn, ear,-----	70	"
9.	Corn, shelled,-----	56	"
10.	Corn Meal,-----	50	"
11.	Hair for plastering,-----	8	"
12.	Hay, per tun,-----	2,000	"
13.	Honey, strained, per gallon,-----	12	"
14.	Lime, unslacked, per bushel,-----	80	"
15.	Malt Barley,-----	38	"
16.	Oats,-----	34	"
17.	Onions,-----	57	"
18.	Onion sets,-----	25	"
19.	Peaches, dried,-----	33	"
20.	Potatoes, Irish,-----	60	"
21.	Potatoes, sweet,-----	50	"
22.	Peas,-----	60	"
23.	Rye,-----	56	"
24.	Seeds, Blue-grass,-----	14	"
	Clover,-----	60	"
	Flax,-----	56	"
	Hemp,-----	44	"
	Hungarian Grass,-----	60	"
	Millet,-----	85	"
	Osage Orange,-----	82	"
	Sorghum,-----	30	"
	Timothy grass,-----	45	"
25.	Salt,-----	50	"
26.	Turnips,-----	55	"
27.	Wheat,-----	60	"

Penalty for keeping false weights or measures. SEC. 6. Any person who shall knowingly keep false weights or measures, and shall buy and sell articles thereby, shall forfeit and pay, upon conviction, a fine of not less than five nor more than twenty-five dollars, to be recovered before any court having competent jurisdiction; the fine shall be appropriated to the use of common schools,

in the same county; he shall also be liable to the injured party in double the amount of damages, with costs of suit.

SEC. 7. All acts and parts of acts inconsistent with this act, are hereby repealed. Conflicting acts repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Authorize Garnishment in certain cases.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That in all cases where an execution issued upon any judgment of a court of record or of a justice of the peace, shall be returned by the officer in whose hands the same was placed for service, unsatisfied for want of sufficient property whereof to levy and collect the same, and the judgment creditor in such execution, his agent or attorney shall file an affidavit in the office of the clerk of the court, or justice of the peace from which said execution issued, that he has good reason to, and does believe that any person or corporation (naming them) have property of and are indebted to the judgment debtor, the said clerks, or justice of the peace, shall issue a summons, as in other cases, requiring such persons or corporations to appear in court and answer such interrogatories as shall be propounded to him, it or them, touching the goods, chattels, rights and credits of the said judgment debtor in his, it or their possession or control. In what cases writ of garnishment shall issue.

SEC. 2. The summons shall be made returnable, and the said persons or corporations shall be required to appear, as in ordinary cases of summons, and thereafter like proceedings shall be had therein, and said garnishees shall be held liable, in all respects, as in cases of garnishees before judgment. Garnishees to be liable as in case of garnishment before judgment

SEC. 3. The summons shall be served as summons in original actions are served, the said persons or corporations so summoned, shall be liable to the judgment creditor in said execution for all property, moneys and credits in his, it or their hands, or due from him, it or them to the judgment debtor in said execution, at the time of and which may come into his, it or their hands or control, after the service of said summons. Summons to be served as in original actions—liability of garnishees.

SEC. 4. No proceedings against such garnishee or garnishees shall be quashed, or such garnishee or garnishees Proceedings not to be quashed by reason of informality.

discharged by reason of any informality or irregularity, merely of the affidavit or summons provided for in this act.

Proceedings
where garnishee
discloses posses-
sion of property.

SEC. 5. In cases where the garnishee in answering such interrogatories, shall disclose that he has property in his possession, or under his control, belonging to the defendant or defendants in execution, the court shall order the same to be taken and sold by the officers upon execution, as in other cases.

Proceedings
where garnishee
discloses that he
is indebted to
defendant.

SEC. 6. In cases where the garnishee in answering such interrogatories shall disclose that he is indebted to the defendant in execution the courts shall order the garnishees to pay over the amount found to be due from the said garnishee to the defendant in execution, which amount shall be collected by execution, as in other cases, as near as may, and such amount when paid or collected, shall be credited on the original judgment and the garnishee shall be credited for the amount so paid or collected.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To apportion the Members of the House of Representatives of the Territory of Nebraska.

Representative
districts.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That hereafter the house of representatives of the Territory of Nebraska, shall be composed of thirty-nine members, to be apportioned among the several counties, as follows:*

Richardson county, four members.

Pawnee county, one member.

Gage and Jones counties, jointly, one member.

Nemaha county, four members.

Otoe county, five members.

Cass county, four members.

Johnson county, one member.

Lancaster county, one member.

Clay, Lancaster, Seward and Saunders counties, jointly, one member.

Saline, Butler, Lincoln and Kearney counties, jointly, one member.

Sarpy county, two members.

Douglas county, five members.

Dodge county, one member.

Platte county, one member.

Platte, Hall, Buffalo and Merrick counties, jointly, one member.

Washington county, two members.

Burt and Cuming counties, jointly, one member.

Dakota county, one member.

Dakota, Dixon, Cedar and L'eau qui Court counties, jointly, one member.

Dixon, Cedar and L'eau qui Court counties, jointly, one member.

SEC. 2. This act shall take effect and be in force from and after its passage, until the close of the session of the legislature of the Territory or future State of Nebraska, next convening after the first day of June, A. D. 1865, and no longer, and shall then expire of its own limitation. When this act shall expire by its own limitation.

SEC. 3. All acts and parts of acts conflicting with this act are hereby repealed. Conflicting acts repealed.

Approved February 1, 1864.

AN ACT

To amend the Second Section of an act entitled "An Act to authorize the Sale of the Cast Iron of the Territory of Nebraska," approved December 29, 1860.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section second of an act entitled "An Act to authorize the sale of cast iron of the Territory of Nebraska," approved December 29, 1860, be and the same is hereby amended so as to read as follows: That the money arising from the sale of said cast iron shall be turned over by the territorial treasurer, or other officer, or person or persons having said money, to the secretary of this Territory, to be by him expended in making repairs upon or finishing the capitol building of the Territory. Section 2d of said act amended
Money arising from sale of cast iron appropriated to finish capitol building

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved January 25, 1864.

AN ACT

To Apportion and Define Councilman Districts.

Councilman districts defined.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the counties of Dakota, Dixon, Cedar and L'eau qui Court shall constitute the first district, and shall be entitled to one member of the council.

SEC. 2. The counties of Washington, Burt and Cumming shall constitute the second district, and be entitled to one member.

SEC. 3. The county of Douglas shall constitute the third district, and be entitled to two members.

SEC. 4. The counties of Sarpy and Dodge shall constitute the fourth district, and be entitled to one member.

SEC. 5. The counties of Platte, Monroe, Merrick, Hall, Buffalo, Kearney and Lincoln shall constitute the fifth district, and be entitled to one member.

SEC. 6. The county of Cass shall constitute the sixth district, and shall be entitled to one member.

SEC. 7. The counties of Cass, Lancaster, Saline and Seward shall constitute the seventh district, and shall be entitled to one member.

SEC. 8. The county of Otoe shall constitute the eighth district, and be entitled to two members.

SEC. 9. The county of Nemaha shall constitute the ninth district, and be entitled to one member.

SEC. 10. The county of Richardson shall constitute the tenth district, and be entitled to one member.

SEC. 11. The counties of Pawnee, Gage, Johnson, Clay and Jones shall constitute the eleventh district, and be entitled to one member.

Census provided for in 1865.

SEC. 12. That at the time of making the assessment of property for the purposes of taxation, in the spring or summer of 1865, the precinct assessor of the several precincts in this Territory or State, shall each make and return a full list of all the inhabitants residents of their respective precincts to the county clerks of their several counties, which said list shall be made, certified as correct, by said several assessors, and returned as soon as said assessment is completed, and an abstract of said list, duly certified, shall, immediately upon the receipt of the same from said assessor, be by the several county clerks transmitted to the territorial auditor.

SEC. 13. That the governor, auditor and secretary of the Territory or future State of Nebraska, shall constitute a council of canvassers to canvass said returns, and ascertain the number of inhabitants in each of said counties, and said returns shall be kept in the secretary's office. Governor, auditor and secretary to canvass returns.

SEC. 14. This act shall take effect and be in force from and after its passage, until the close of the session of the legislature of the Territory or future State of Nebraska, next convening after the first day of June, 1865, but no longer, and shall then expire of its own limitation. Limitation of this act.

SEC. 15. All acts and parts of acts inconsistent with this act, are hereby repealed.

Approved January 28, 1864.

AN ACT

To encourage the Introduction and Raising of Sheep in Nebraska.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That all sheep not to exceed five hundred in number to each person or persons owning the same, are hereby exempted from forced sale on execution, and fifty of the same shall be exempt from taxation. 500 sheep exempt from sale or taxation.

SEC. 2. All acts and parts of acts inconsistent with this act, are hereby repealed. Conflicting acts repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

PART SECOND.

SPECIAL LAWS.



SPECIAL LAWS.

AN ACT

To Vacate Streets and Alleys in the towns of Cleveland, Liberty and Mount Pleasant.

SECTION 1 *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That all streets, parts of streets and alleys lying and being in the towns of Cleveland, Liberty and Mount Pleasant, Cass county, be, and the same are hereby vacated, and the lots heretofore bounded thereby shall extend to the middle of said streets, and the title to the land occupied by said streets to the middle thereof, and adjoining said lots, is hereby vested in the owners of said lots.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 10, 1864.

AN ACT

To authorize the Town Council of Nebraska City to raise money to erect a Central or High School Building.

SECTION. 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the mayor and common council of Nebraska City, shall by virtue of their office be commissioners of the school house fund in and for said city, and in common council shall perform all the duties of such commissioners, and shall possess all the rights, powers and authority of township's board of education in the several precincts and townships of this Territory, for the purpose of raising moneys required for erecting, purchasing and leasing school

houses, and procuring sites therefor and the fitting up and furnishing thereof, and the alterations in, or additions to the present or future school buildings, or required for any other of the purposes authorized by this act.

SEC. 2. That the recorder of said city shall be the clerk of the mayor and common council thereof, when acting as commissioners of the school house fund of the said city, and shall perform all the duties of the township clerks of the several townships in this Territory, as clerks of the board of education of such townships.

SEC. 3. That all appropriations of public money for school or other purposes, Nebraska City shall be taken and considered as a township in the county of Otoe, and shall be entitled to all books in the same manner as other townships in said county, and all such moneys or books shall be paid or delivered to the treasurer of said city to be used and appropriated for school purposes in said city on the orders of the board of education of said city as hereinafter provided.

SEC. 4. That all the common graded and central schools organized within Nebraska City, shall be public and free to all children residing within the district over the age of five and under the age of eighteen years; that the board of education of said city shall on or before the first day of March in the year 1864, and each year thereafter, make an estimate of the amount of money that will be necessary to support the school system of said city, for the next succeeding year, commencing on the first day of April, and certify the same to the common council of said city, and shall within five days thereafter file the same with the recorder, and the common council by a vote of the majority of all the common council elected, are hereby authorized to include in the general annual city tax list such additional sum as in their opinion, with the public school moneys for the year, will be sufficient to support the school system of the said city, and to defray the expenses of all the schools under the charge of such board of education. The moneys thus raised for school purposes, together with all moneys received from other sources for such purposes, shall constitute a separate fund to be called the school fund, and a separate and distinct account thereof shall be kept by the proper officer or officers of said city, and the moneys of this fund shall not be appropriated or diverted to any other purpose whatever.

SEC. 5. That the common council of Nebraska City shall have power, and it shall be their duty whenever it may be deemed necessary, to be determined by the certificate of the board of education of said city so to do.

First. To designate and purchase or lease in said city, all necessary sites for school houses therein, and to improve and fence the same as to them shall appear suitable and proper.

Second. To build on such sites or on any lots owned by the city, such school house or school houses and out buildings as shall to them, in connection with the board of education of said city, or a majority of such common council and board, appear suitable and sufficient for said city.

Third. To complete, improve, enlarge or repair any city school

house, from time to time as the majority of said common council and board of education shall think proper, and to supply such school houses, whenever they deem it expedient, with such school apparatus, maps, furniture and appendages as they may direct.

Fourth. To order from time to time a tax to be levied upon all the taxable property in said city, sufficient to pay all such sums as they may have expended or may deem necessary to be expended for such purposes in this section above specified, not exceeding ten mills on the dollar in any one year, ascertaining the valuation of the property to be taxed, from the general assessment roll in said city. The moneys thus raised for school house purposes, together with all moneys received from other sources for such purposes, shall constitute a separate fund to be called the school house fund, and a separate and distinct account thereof shall be kept by the proper officer or officers of the city, and the moneys for this fund shall not be appropriated or diverted to any other purpose whatever.

Fifth. To make out a tax list of all such taxes ordered by them at the time of, and simular in form, to the general assessment roll or tax list in said city, ascertaining the valuation of the property to be taxed as far as possible from the general assessment roll of said city, for the same year for which such tax shall be levied, and no person shall be entitled to any reduction of the valuation of such property unless he shall give notice in writing of his claim to such reduction to the city recorder, within ten days after the passage of the order to raise such tax, such tax list may be delivered to the marshal of the city, to be collected as other taxes levied in said city, and when such tax shall be collected the city marshal shall pay the same over to the city treasurer.

Sixth. To make such by-laws and ordinances as they may deem necessary for the proper security and preservation of the school houses and other property owned by the city for school purposes.

Seventh. To require and take from the city marshal such securities for the faithful performance of his duties, as tax collector, and to pay over and account for all school moneys of every kind that may come to his hands, after deducting his legal fees for collecting, as they shall deem adequate, which such security shall be a bond of the marshal, in the penal sum of at least fifteen thousand dollars, with four good and sufficient sureties, who shall each severally justify in the sum of four thousand dollars, and which bond shall be approved by the mayor and common council in common council, and be filed and recorded with the recorder.

Eighth. And with the advice and consent of the board of education of said city, to divide said schools into primary and higher departments, or otherwise whenever they shall deem such division desirable, and to prescribe regulations for the transfer of scholars from one department to the other, to receive scholars from other districts, and the amount to be paid by such scholars to the treasurer for the use of the school fund of said city for instructions in the schools thereof, and also to direct the board of education of said city to provide suitable and sufficient instructors for each of said departments and schools.

SEC. 6. The mayor and common council of Nebraska City, are hereby authorized and directed to raise by loan, in anticipation of the taxes, when deemed necessary, to be determined by a majority of votes cast by the legal voters of said city, at any election to be held pursuant to law regulating the levying of special taxes in said city, all moneys not exceeding in the aggregate, fifteen thousand dollars, required for erecting, purchasing or leasing school houses and procuring sites therefor, and the fitting up and furnishing thereof, and for alterations in, or additions to the present school buildings, or any buildings that shall be purchased for that purpose, or required for any other purposes authorized by this act.

SEC. 7. That for the purpose of effecting such loan, the mayor and common council are authorized to issue the bonds of said city under the seal of said city, signed by the mayor and counter signed by the recorder, to the amount of fifteen thousand dollars and no more, bearing interest at a rate not exceeding ten per centum per annum, payable semi-annually with coupons attached, redeemable in one, two, three, four and five years, to be paid off and redeemed out of the school house fund here-in-above provided for.

SEC. 8. That the mayor and common council of Nebraska City shall not be empowered to issue such bonds to an amount exceeding fifteen thousand dollars in the aggregate, and shall not dispose of, or convert any of said bonds at a greater discount than ten per centum. Any sale thereof made by them, or any person on behalf of said city, at a greater discount than ten per centum, shall be deemed usurious and void, and such bonds so illegally sold shall be absolutely void in the hands of every person whomsoever.

SEC. 9. That it shall be the duty of the recorder of said city, to enter in a suitable book to be provided, all of such bonds sold, to whom, the number and to whom made payable, and for what sum sold, which book shall be kept as a public record in his office, open to the inspection of any person whomsoever. That if said recorder shall make any false entry therein, in respect to such bonds or any of them, with intent to defraud any person or corporation, or to conceal any fraudulent or illegal act in relation to any of such bonds, he shall be liable to a fine not less than five hundred dollars, or imprisonment in a penitentiary not exceeding three years.

SEC. 10. That all school house funds and other school funds, shall be placed by the mayor and common council of said city in the hands of the city treasurer, subject to the order of a majority of the board of education of said city, on drafts signed by them and counter signed by the recorder of said city to be appropriated in pursuance of this act.

SEC. 11. That there shall be elected annually, at the annual election for city officers in said city, to hold office for one year, three school directors, one residing in each ward of said city, to be known as the board of education of Nebraska City, and shall qualify at the same time as other officers of the said city, and shall possess all the rights, powers and authority of local school directors, and of a township board of education as prescribed by the general school law of this

Territory, within the corporate limits of Nebraska City, except to levy and assess taxes, and shall perform all the duties of such school directors and board of education.

SEC. 12. That the recorder of said city shall be the clerk of such board of education, and shall perform all the duties required of township clerks of the several townships in this Territory, and be subject to the same penalties for neglect thereof.

SEC. 13. That it shall be the duty of said board of education, at least sixty days before the annual election of city officers in each year, to prepare and report to the common council, true and correct statements, certified by the recorder, that the same are true as appears from the records of said board, of the receipts and disbursements of moneys under and in pursuance of the provisions of this act, and during the preceding year, in which accounts shall be stated under appropriate heads.

First. The moneys raised by the common council for school purposes, under this act.

Second. The school moneys received by the treasurer of the city from the county treasurer.

Third. The amount received from all other sources for school purposes, specifying the sources.

Fourth. The moneys received for tuition fees.

Fifth. The amount received from the school house fund provided for by this act, and from what source the same came.

Sixth. The manner in which such moneys shall have been expended, specifying the amount paid under each head of expenditure. The common council shall, thirty days before the said election, cause such statement to be published once in each week, for three consecutive weeks, in two city papers, the expense thereof to be paid out of the general fund of said city.

SEC. 14. That the said board shall have power, and it shall be their duty;

First. To establish and organize in the several wards of said city, such and so many schools as they shall deem requisite and expedient, and to alter and discontinue the same.

Second. To contract for and superintend the building, leasing, enlarging, improving, furnishing and repairing of all school houses under the charge of the mayor and common council of said city, and of making all repairs and improvements on and around the same.

Third. To contract with and employ all the teachers in the several schools therein, and at their pleasure to remove them.

Fourth. To pay the wages of such teachers out of the school moneys which shall be appropriated and provided in the said city by the common council, and out of any other school moneys belonging to the school fund.

Fifth. To have the custody and safe keeping of the school houses, out houses, furniture and appendages, and see that the ordinances of the common council in relation thereto be observed.

Sixth. To purchase, exchange, improve and repair school apparatus, maps, furniture and appendages, and to provide fuel for the schools, and

defray their contingent expenses and the expenses of the school library.

Seventh. To fix the rate of tuition fee, to be reported to the common council, and subject to approval of said council, to be paid by scholars residing out of the limits of said city, or any scholar taught in said schools being over the age of eighteen years.

Eighth. To defray the necessary contingent expenses of the board, including a salary to the recorder while acting as clerk of the board, which shall not exceed the compensation received by him as recorder of the city, provided that the accounts of such expenses shall be first audited by the common council.

Ninth. To have, in all respects, the superintendence, supervision and management of the schools of said city, and from time to time adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one school to another, and generally for the promotion of their good order, prosperity and public utility; and to require the teachers of said school to keep a correct report of the number and name of scholars in attendance at such school, and report the same to the board.

Tenth. Whenever in the opinion of the board it may be advisable to sell or otherwise dispose of any of the school houses, lots, sites, or any of the school property now or hereafter belonging to said city, to report the same to the common council.

Eleventh. To prepare and report to the common council such ordinances and regulations as may be deemed necessary or proper for the protection, safe keeping, care and preservation of school houses, lots, sites and appurtenances, and all the property belonging to the city connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations, and annually to determine and certify to the common council, the sums necessary and proper to be raised under the provisions of this act, specifying the sums required for each of the several purposes therein mentioned.

Twelfth. Between the first day of April and the first day of May in each year, to make and transmit to the common council, bearing date on the first day of April in the year of its transmission, and stating,

1st. The whole number of schools and the grade thereof kept open for the reception of scholars during the preceding year.

2d. An account and description of all the schools kept in said city during the preceding year, the time they severally have been taught, the number of teachers for each respectively.

3d. The number of children taught in said schools respectively, and the number of children over five and under eighteen years residing in the city on the first day of March of that year; which report shall be published by the common council in the two papers in said city, for three weeks, once in each week.

SEC. 15. That the title of the school houses, sites, lots, furniture, books, maps, apparatus and appurtenances, and all other school prop-

erty hereinbefore in this act mentioned, shall be vested in Nebraska City; and the same while used for or appropriated for school purposes shall not be liable to be levied upon or sold by virtue of any warrant or execution, or other process, not be subject to taxation or assessment for any purpose whatever; and the said city, in its corporate capacity, shall be able to take hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the schools of said city, whether the same shall be transferred in terms directly to said city by its proper style, or by any other designation, or to any other designation, or to any person or persons or body for the use of said schools.

SEC. 16. That whenever the said board of education shall deem it advisable to dispose of any such school property provided it this act, the common council may, by order direct the same to be sold, and upon such sale the mayor shall execute under his hand and seal of office to the purchaser, a conveyance therefor duly attested by the recorder, and the proceeds of such property shall be paid to the city treasurer, for the use of the school house fund provided for in this act.

SEC. 17. That the city treasurer shall execute a bond to Nebraska city, in the sum of twenty thousand dollars, with at least four sureties, each to justify in the sum of at least five thousand dollars, and to be approved and recorded in the manner provided by this act for the execution of the city marshal's bond, and any bond executed under this act shall, whenever a breach thereof has happened, be prosecuted in the name of the mayor and common council for the use of the appropriate fund, for the protection of which such bond was executed.

SEC. 18. That the board of education for the township of Nebraska city shall be, and continue to act as such, until a board of education shall be elected and qualified by the provisions of this act.

SEC. 19. That the general school laws of this Territory in force at the time of the passage of this act shall, so far as the same are applicable, be taken and construed as part of this act, and that all acts and parts of acts inconsistent with or repugnant to the provisions of this act are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To vacate Blocks number twelve (12) and sixteen (16) in the town of Ponca in Dixon County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That all lots in blocks number twelve

(12) and sixteen in the town of Ponca, in the county of Dixon, and all streets and alleys located upon said blocks, be and the same are hereby vacated, and that the title to the land covered by said streets and alleys is restored to the parties owning said lot at the time of the taking effect of this act, in proportion to the number or proportion of any lot so owned.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To empower the Board of Education of Ponca School District in Dixon County, to levy a Tax for School purposes for the year A. D., 1864.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the board of education of Ponca school district in the county of Dixon, be and they are hereby authorized and empowered to make the annual estimate as provided in section twenty-one, of an act entitled "An act for the better regulation of schools in Nebraska," approved November the 4th, 1858, for the year 1864. And the county clerk of the said county, is hereby authorized and empowered to assess the entire amount of such estimate on all taxable property of the said school district, the same as though the said estimate had been made to him within the time prescribed by the said section twenty-one of the aforesaid act.

SEC. 2. That the said board of education be, and are hereby empowered and authorized to estimate and require to be levied, for the year 1864, and no longer, for the purpose of sustaining teachers, any amount upon all the taxable property of said school district, not exceeding ten mills on the dollar valuation of said taxable property, and the county clerk shall assess the entire amount of such estimate in manner prescribed in the preceding section.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

Regulating Sales at Auction in the County of Douglas.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That it shall be unlawful for any person to exercise the trade or occupation of an auctioneer, or to sell by way of public auction, vendue, or outcry, either directly or indirectly, in the county of Douglas, any property, goods, wares, merchandise, or effects whatsoever without first obtaining a license as auctioneer, as hereinafter provided; and if any person shall sell or attempt to sell by way of public auction, vendue, or outcry in said county of Douglas, any property, goods, wares, merchandise or effects (unless as hereinafter excepted) without having such license, every person so offending shall for every such offense, be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, and be imprisoned in the county jail till such fine and cost of prosecution be paid.

SEC. 2. That the prohibition aforesaid shall not extend to any officer or person executing any process or order of any court in this territory, selling any property or effects directed by law or by any process or order to be sold by public auction, vendue or outcry.

SEC. 3. That the county commissioners of the county of Douglas shall have power and authority to appoint such number of suitable persons, residing in said county, as they may deem proper to exercise the trade or occupation of auctioneers and make sales at auction, according to law, within such county for the term of one year from the date of such appointment

SEC. 4. All applications for such appointments shall be by petition, in writing, setting forth the regular place of doing business of such applicant, and shall be signed by at least six freeholders of said county of Douglas

SEC. 5. That every auctioneer appointed under the provisions of this act, before he shall receive a license or enter upon the duties of his appointment, shall give bond to the Territory of Nebraska, with two or more sufficient sureties, to be approved by said county commissioners, in the sum of five hundred dollars, conditional for the faithful discharge of all duties of said appointment, and for the payment of all duties that are or shall be imposed by law, and that shall accrue on sales made by him, and shall file the same with the treasurer of the county of Douglas, and pay to such treasurer the sum required in the sixth section of this act for such license, and take his receipt therefor, which receipt shall be delivered to the county clerk of the said county, who shall file the same in his office, whereupon the

said county clerk shall issue a license, in proper form, attested by the seal of said county, granting to the auctioneer so appointed full power and authority to set up or expose to sale, at public auction, property of every kind and description, for which the said county clerk shall be entitled to one dollar and his fee, to be paid by the auctioneer on the delivery of the same.

SEC. 6. That every auctioneer appointed under the provisions of this act, shall pay for such license the sum of one hundred dollars in money, annually, and shall moreover give bond in the sum of five hundred dollars, as provided in the fifth section of this act.

SEC. 7. That every licensed auctioneer within the county aforesaid, shall keep a regular sales-book, in which he shall set down the date of every auction sale made by him, the name and quantity of every article sold or struck off, the price at which and the name of the person to whom the same was sold or struck off, and shall also set down the name of the person upon whose account the sale was made, and the gross amount of such sale shall be footed up so as to show the correct amount thereof, and every auctioneer who shall fail to comply with the provisions of this section, shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars and the cost of prosecution.

SEC. 8. That every auctioneer appointed under the provisions of this act, shall make out, in writing, a quarterly account dated on the first days of March, June, September, and December, in the year for which he shall have been appointed, and shall therein state minutely and particularly the following facts, viz: the gross amount of all sales made by him under the provisions of this act, from the date of his license or from the date of his last quarterly return, as the case may be, and the name or names of all persons on whose account the sales were made, and the amount sold for each person; and the said auctioneer shall verify every such account by his oath, which may be taken before any person authorized by law to administer oaths, and shall be in substance as follows, viz: I, A. B., do solemnly declare that the account now exhibited by me and to which this verification is attached, contains a full and true statement and exhibit of the gross amount, and on whose account sold, of all the property and effects of every description sold or struck off by me at public sale, or sold or struck off by any other person or persons for me, and in my name, within the time therein stated; and said auctioneer shall, within ten days from the date of any such account, deliver the same to the county treasurer of said county, and shall at the same time pay to such county treasurer one-tenth of one per cent. on the gross amount of all sales so made and included in such account, which sum so paid shall be placed to the credit of the general fund of said county of Douglas; and if any auctioneer shall neglect or refuse to exhibit his quarterly accounts and deliver the same properly verified, as aforesaid, every auctioneer so offending, shall be deemed guilty of a misdemeanor and on conviction thereof before any court of competent jurisdiction, shall pay a fine in any sum not exceeding fifty dollars and cost of prosecution.

SEC. 9. That all fines collected under the provisions of this act,

shall be paid to the county treasurer of said county within ten days after the same shall be collected, and shall be placed to the credit of the general fund of said county.

SEC. 10. That the county clerk of said county of Douglas is hereby constituted an inspector, whose duty it shall be, at least once every three months to examine the sales-book of every auctioneer in said county, and see that said book is kept in regular form and contains a true statement of all the auction business done by such auctioneer, and shall also ascertain whether the return made to the county treasurer by such auctioneer corresponds with said sales-book, and in case any auctioneer shall refuse to exhibit such book or books to said inspector, on his application therefor, the said county commissioners on complaint of such inspector shall have the power to forfeit the license of the auctioneer so offending, and such license, from the time of such forfeiture, shall be absolutely null and void.

SEC. 11. That all acts and parts of acts conflicting with the provisions of this act, are, so far as they so conflict, hereby repealed.

SEC. 12. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To divert a portion of the Road Fund of Dakota County for School purposes.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That hereafter it shall be the duty of the county commissioners of Dakota county to divert and set aside twenty-five per cent. of the road fund of said county, for school purposes, for the benefit of the several school districts in said county.

SEC. 2. Each school district shall be entitled to receive the full amount of tax collected in such school district, in accordance with the provisions of this act.

SEC. 3. Said proportion of the road fund shall be collected in cash, by the treasurer of said county, in the same manner as other taxes, and paid over to the treasurer of each school district on order of the county clerk of said county.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To confer the Privileges of the Elective Franchise upon Edwin Harmell and Acan Harmell.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That Edwin Harmell and Acan Harmell, of Cedar county, in the Territory of Nebraska, be, and they are respectively invested with all and singular the rights and privileges of the elective franchise, within said Territory, under the same restrictions and regulations as other citizens thereof, and hereafter they shall be under the same obligations and duties to all the laws and municipal regulations, in said Territory, as if they were natural born citizens of the United States.*

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Repeal an Act entitled "An Act to appropriate Five Hundred Dollars to Re-survey certain Lands known to be "Saline," in Lancaster county, and for other purposes, Approved January 10th, 1862," and for other purposes.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That an act entitled "An act to appropriate five hundred dollars to re-survey certain lands known to be saline, in Lancaster county, and for other purposes," approved January 10th, 1862, be, and the same is hereby repealed.*

SEC. 2. That the said sum of five hundred dollars be, and the same is hereby appropriated to the purpose of erecting a bridge or bridges across Salt Creek, and such other smaller streams flowing thereinto, as may be deemed expedient, within the saline reservation, or as near as practicable thereto, of the county of Lancaster, in this Territory.

SEC. 3. That Jacob Vallery, of Cass county, William E. Hill, of Otoe county, Joseph Mulay, of Lancaster county, Herman Uticht, of Nemaha county, and James Etherton, of Clay county, be, and the same are hereby constituted and appointed commissioners to view the ground best adapted to a good and permanent road, at all seasons of the year, on each side of the stream or streams, over which such bridge or bridges may be erected.

SEC. 4. On or before the first day in June, A. D. 1864, upon timely notice given by William E. Hill, of Otoe county; (who is hereby required to give such notice to the other of said commissioners) of the time and place of meeting, the said commissioners, or a majority of them, who being first duly sworn to faithfully and impartially perform the duties of their said commission, according to the provisions of this act, they shall proceed to perform the duties required of them by this act, and make report of their proceedings to the territorial auditor as soon as practicable after making such view and location.

SEC. 5. Upon making the location of the site or sites of such bridge or bridges, as aforesaid, said commissioners are hereby empowered and required, to select and appoint a suitable person to superintend and direct the appropriation and expenditure of said five hundred dollars, to the purposes aforesaid, and report the name of such person to the territorial auditor. The person so selected, shall, upon the completion of said bridge or bridges, render unto the territorial auditor, a certified bill of all expenditures incurred in the erection of such bridge or bridges, which bill of expenditures shall be verified by the oath or affirmation of the person so appointed, and thereupon the territorial auditor shall, and he is hereby authorized and required to draw his warrant upon the territorial treasurer in favor of the county commissioners of the county of Lancaster, for the amount specified in said bill, not exceeding the sum of five hundred dollars; and the said commissioners of Lancaster county, shall, upon receipt thereof, pay over the same to such person or persons as shall be by the provisions of this act entitled to the same.

SEC. 6. The said appointed commissioners, or so many of them as shall make said view and location for said bridge or bridges, are also hereby authorized and empowered to make or let contracts to and with the lowest responsible bidder or bidders for building or furnishing material for the construction of such bridge or bridges, or any part thereof, for sums not exceeding, in the aggregate, the said sum of five hundred dollars.

SEC. 7. Each commissioner hereinbefore appointed, shall be allowed for his services, rendered under the provisions of this act, such compensation as the county commissioners of his county shall deem proper and just, and the same shall be paid by the county treasurer of his county, upon the order of the county commissioners.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

PART THIRD.

MILL-DAMS AND TOLL-BRIDGES.

MILL-DAMS & TOLL-BRIDGES.

AN ACT

To authorize Henry Elliott, his Associates and Assigns, to erect a Toll-bridge across the Little Nemaha River.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That Henry Elliott, his heirs, assigns, associates and successors, be, and they are hereby authorized to build and keep a toll-bridge across the Little Nemaha River, at a point where the old emigrant road crosses said river, or any other point on said river within three miles of its mouth, or junction with the Missouri river, for the term of thirteen years, with the exclusive privilege therefor, the legislative assembly reserving the right to alter, amend or repeal this act.

SEC. 2. Said Elliott, his heirs and successors shall within fifteen days after the fifteenth day of February, A. D. 1864, have a suitable bridge erected across the said Little Nemaha River, within the limits herein specified, for the speedy and safe passage of persons and property.

SEC. 3. The owner or owners of said bridge shall be allowed the following rates of toll:

For two horses, mules, or oxen and wagon or other vehicle,	25 cents.
For each additional pair of horses, mules or oxen,-----	10 "
For each horse or mule and buggy, or other vehicle,-----	15 "
For each horse or mule and rider,-----	10 "
For each led horse, or mule,-----	5 "
For loose cattle, per head,-----	5 "
For loose hogs, per head,-----	2½ "
For footman, -----	5 "

For the crossing of sheep there shall be no fee charged.

SEC. 4. That in default of said company maintaining and keeping at all times during its corporate existence, such bridge in good order and safe condition for crossing, the said company shall for each and every day of such default, forfeit and pay a fine of fifty dollars, to be

recovered by an action at law in the name of the Territory of Nebraska, and for every horse, gelding, mare, ox, cow, or other live stock, or article of personal property which may be injured or lost in attempting to cross such bridge by reason of the negligence or failure of said company to maintain and keep such bridge in good order and safe condition for crossing, said company shall be liable for, and pay to the owner or owners thereof, the full value or price of all chattels and property so injured or lost, and the same may be recovered by an action at law in the name of the owner or owners thereof; *Provided, however,* that if said bridge be destroyed by fire, wind, or water, then, and in that case, the fine herein provided shall not be enforced until such bridge shall again be rebuilt. * All fines and forfeitures collected under the provisions of this act, shall, within ten days after the collection thereof, be paid into the county treasury of the county in which the action is brought, for the use of the common school fund of this Territory.

SEC. 5. An act entitled an act to authorize N. A. Finney and his associates to establish and keep a ferry across the Little Nemaha River, in Forney county, approved February 28th, 1855, is hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 1, 1864.

AN ACT

To authorize Dean C. Slader, Jacob R. Lewis, and John R. Meredith to construct and keep a Mill-dam across the West Papillion Creek, in Sarpy county.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That Dean C. Slader, Jacob R. Lewis and John R. Meredith, be, and are hereby authorized to construct and constantly keep a mill-dam across the West Papillion Creek, on the south-west quarter of the south-east quarter of section twenty-nine, in township fourteen, range thirteen, east of the sixth principal meridian, in Sarpy county, Nebraska.

SEC. 2. The said Dean C. Slader, Jacob R. Lewis and John R. Meredith, their heirs and assigns, shall have perpetual right to keep a dam across said creek, at the point designated in section one of this act, to the height of twelve feet above low water mark, so as to propel mills or any other machinery that said parties, their heirs or assigns have erected or may erect.

SEC. 3. No person or persons shall be allowed by law to build or construct any dam below the point designated in this act, so as to in-

terfere with the rights granted in this act to the said Dean C. Slader, Jacob R. Lewis and John R. Meredith, their heirs and assigns.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved January 27, 1864.

AN ACT

To authorize James Folden, his Associates and Assigns, to keep a Mill-dam across the main branch of Weeping Water, in Cass County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That James Folden, his associates, successors and assigns, are hereby authorized to erect and keep a mill-dam across the main branch of the Weeping Water, in Cass county, Nebraska, upon the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of section 26 township 10 north of range 13 east of the 6th principal meridian

SEC 2 The said James Folden, his associates, successors and assigns, shall have perpetual and exclusive right to keep the said dam to the height of ten feet above low water mark, so as to enable the said parties to keep in running order the machinery of a public mill for grinding grain; and such other machinery as they may see fit to erect for other than the above purpose, subject to all damages, as provided by an act entitled "an act to provide for the erection of mills, mill-dams, and for other purposes," approved January 10th, 1862.

SEC 3 It shall not be lawful for any person to erect a mill-dam or otherwise obstruct the water of said creek, at any point below the place designated in the first section of this act, in such manner as to injure the usefulness of said mill and privileges hereby granted

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To authorize John Inhelder to Erect a Mill-dam across Cedar Creek.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That John Inhelder be, and is hereby authorized to erect and constantly keep a mill-dam across Cedar Creek, on the east half of the north-west quarter of section seven, township twelve, range twelve, east of the sixth principal meridian.

SEC. 2. That John Inhelder, his heirs and assigns, shall have the perpetual right to keep a dam on said creek, at the point designated in section one of this act, so as to propel mills or any other machinery that said Inhelder or his heirs or assigns may want to erect; *Provided*, the said privilege shall not be construed in any way to interfere with the rights of other parties.

SEC. 3. No person shall be allowed by law to build or erect any dam below the point designated in this act, so as to interfere with the rights granted in this act to John Inhelder, his heirs and assigns.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT.

To Incorporate the Platte Valley Bridge Company.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That Francis Smith, Augustus Kountze, James G. Megeath, Edward B. Taylor, John McCormick, Edward Creighton and Enos Lowe, and their associates and successors, be, and they are hereby created a body corporate and politic, under the name and style of the Platte Valley Bridge Company, and such company shall have all the rights and powers incident to or requisite and necessary to carry into effect the provisions of this act.

SEC. 2. The said corporation shall, among other powers and privileges, have the exclusive privilege of building, keeping and maintaining three toll bridges, to be severally located as follows, viz; one toll bridge across the Loupe Fork of the Platte river; one toll bridge across the north Fork of the Platte river; and one toll bridge across the Platte river, at any point on said river above its confluence with the Loupe Fork. The said toll bridges to be established and built at such points on the said rivers respectively, as the said corporation may select for that purpose; and no other person or corporation shall be allowed to build, keep or maintain any bridge whatever, across either of the said rivers, within five miles from the several points or places which may be selected by the corporation hereby created, for the purpose of building a toll bridge as aforesaid; *Provided*, however, that this section shall not be held to interfere with the right of any railroad company, now or hereafter to be organized, to erect bridges across either of the said rivers to be used for railroad purposes only.

The said corporation shall file in the office of the secretary of the Territory, a notice or statement of each selection made by them of the place for building a bridge as aforesaid, immediately upon such election being made.

SEC. 3. The capital stock of the said company shall be one hundred and fifty thousand dollars, and may be increased from time to time, which stock shall be divided into shares of fifty dollars each, and may be subscribed for, issued and transferred upon such terms, and in the manner, and at such places as may be ordered by the board of directors.

SEC. 4. All the corporate powers of said company shall be vested in a board of directors, consisting of seven stockholders, a majority of whom shall constitute a quorum. The said board of directors shall be elected annually by the stockholders, and shall hold their office for one year, and until others are elected in their places; *Provided*, that vacancies occurring between one election and another, may be filled by the remaining directors.

The said directors shall choose one of their number as president, and the said board shall have power to make all proper by-laws for the regulation of said company and its affairs, not inconsistent with the laws of this Territory. The persons herein named as corporators, shall act as directors, until others are chosen in their places.

SEC. 5. Meetings of the stockholders shall be holden at such times and place or places, within or without this Territory, as the directors may by their by-laws prescribe, and at such meetings the stockholders may vote in person or by proxy.

SEC. 6. The said corporation may demand and collect such tolls for all persons, chattels or property passing over any of its bridges, or either of them, as it may think proper, not exceeding the following rates, upon the following persons, chattels and property, that is to say :

For two horses, mules or oxen and wagon, with or without load,-----	\$1 50
For each additional pair of horses, mules or oxen,-----	35.
“ each horse or mule, and rider,-----	45
“ “ “ “ “ “ buggy,-----	1 00
“ “ led horse or mule,-----	35.
“ loose cattle per head,-----	15
“ sheep and hogs, per head,-----	10
“ each footman,-----	15

SEC. 7. If any person shall ride or drive any horse, or other animal over any of said bridges, faster than a walk, he or she shall pay a fine of five dollars to said corporation, and in default of payment, to be recovered before any court or magistrate having jurisdiction.

SEC. 8. The said corporation shall at all times keep posted up upon each of its bridges, a board, whereon shall be legibly written or printed, the rates of toll for passing such bridge, and such rules and regulations, as persons passing the same, are required to observe; and if any person shall pass or attempt to pass over said bridge, without paying the toll required of him or her, or shall violate said rules and regulations, he or she shall pay a fine of twenty-five dollars to said corporation, and all damages it shall sustain, by reason of the violation of said rules and regulations, and in default of payment, to be recovered before any court or magistrate having jurisdiction.

SEC. 9. The said company among other powers, shall have power to borrow such sums of money, or otherwise to become indebted, from time to time, as may in the opinion of the directors, or a majority of them, be expedient, to an amount not exceeding three-fourths of the capital stock of the said company, actually paid in; and issue and dispose of its bonds, obligations, or evidences of its indebtedness, for the purpose aforesaid, and may mortgage all or any portion of its property and franchises, to secure the payment of any debt contracted by said company, by such form of deed or deeds, and with such powers of sale therein contained, as the said directors, or a majority of them, may think proper; the said deed or deeds to be recorded in the county or several counties, wherein the bridge or bridges in said deed or deeds described, are situated, or if not in any organized county, then in the county east thereof to which the same is attached for judicial purposes; and such company may sell its bonds, obligations, or evidences of indebtedness, either within or without this Territory, at such rates and prices as said directors, or a majority of them, may sanction and determine, *Provided*, said bonds shall not be negotiated for less than three-fourths of the value expressed upon their face; and said sales shall be as valid and obligatory upon the company for the full amount of the bonds, obligations, or evidences of indebtedness sold, as if such bonds, obligations, or evidences of indebtedness, were sold at par value.

SEC. 10. The said company shall commence, establish and complete its bridges upon the Loup Fork, and upon the North Fork, respectively, within one year after the passage of this act, or in default thereof shall forfeit all the rights and powers acquired by this act. The said company shall also select and give notice of the point or place by them selected for the bridge across the Platte river, in accordance with the provisions of section second of this act, within one year after its passage, and shall complete the said bridge within three years after its said passage; and it shall have no right to establish any new bridge after the said times, respectively, but may keep and maintain those already established for sixty years.

SEC. 11. In case the said corporation shall, at any time, deem it expedient to sell its bridge over the Loup Fork river, to any railroad company, to be used thereafter for railroad purposes only, it shall have power to make such sale and transfer said bridge to such railroad company: and in case of such sale, the said corporation shall have the privilege at any time within two years thereafter, of erecting a new toll bridge in place of the one so sold as aforesaid, at any point within the limits of five miles therefrom, on said Loup Fork river, over which exclusive privileges are granted by this act, and all the provisions of this act shall be applicable to said new bridge, *Provided*, however, that if said corporation shall fail to erect such new bridge, within two years after such sale and transfer as aforesaid, it shall forfeit all the rights and privileges secured to the said corporation by this act in respect to the river upon which the bridge so sold as aforesaid is built.

SEC. 12. The directors of the said corporation shall keep or cause to be kept just and true accounts of all the receipts of the said corporation, from whatever source derived, and also of all its expenditures, which said accounts shall be open to the examination and inspection of any stockholder of said company, at all times.

The said directors shall at least once in each and every year, declare and pay over to the stockholders, a pro rata dividend from the net earnings of the said company, if any such there be. Before making and declaring such dividend, the directors shall deduct from the gross earnings of the company, the amount of all proper and necessary expenses incurred in conducting the business of the company, and keeping the bridges and other property of the company in repair; they shall also deduct from said gross earnings, such sum as shall be necessary to pay any accruing interest, or other indebtedness of the company to become due and payable before the time when the next succeeding dividend is to be made and declared, if such there be, and they may also reserve and set apart from the gross earnings of the company, before such dividend is made and declared, such sum as the directors may think expedient, not exceeding in amount ten per cent of said gross earnings, for the purpose of keeping the bridges and other property of the company, in good condition and repair, *Provided*, that in case such fund so reserved and set apart as aforesaid, is not actually required to be used for the purpose aforesaid, in whole or in part, then the same, or the remaining unexpended portion thereof shall be reckoned among the gross earnings of the company, at the time of making and declaring the dividend next thereafter ensuing.

The said directors shall not sell or dispose of either of the bridges, or the franchises of the said company, without such sale shall be authorized by a vote of at least three-fourths of the capital stock of said company, and in case of any such sale, the proceeds thereof shall be divided among the stockholders of the company, pro rata, unless by a vote of at least three-fourths of the capital stock of the said company, the proceeds of said sale shall be otherwise disposed of for the benefit of said company.

SEC. 13. The said company shall keep its bridges in safe and good condition and repair, with a good substantial side railing on each and every of their said bridges, and shall be liable for all damages to persons or property, resulting from the negligence or carelessness of said company, and shall afford egress and regress across and over their said bridges, to all persons and property, when the rates of toll hereinbefore provided for, shall be first paid or tendered.

SEC. 14. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

Authorizing William W. Wood and Charles Libby to erect a Mill-Dam across the Great Nemaha River in Johnson County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That William W. Wood and Charles Libby, their heirs and assigns are hereby authorized to erect and constantly keep a mill-dam across the north fork of the Great Nemaha river, in the north-east quarter of section twenty-three, township number four, north of range number eleven, east of the sixth principal meridian in Johnson county, Nebraska Territory.*

SEC. 2. The said parties, their heirs and assigns, shall have perpetual right to keep the said dam on the said river, at the point designated in the first section of this act, to the height of twelve feet from low water mark, so as to propel the mills or other machinery that said parties or their successors may erect, *Provided*, the said privileges shall not be construed in any way to interfere with the right of other parties.

SEC. 3. No person shall be allowed to build or erect any dam below the point designated in this act, so as to interfere with the right granted by this act.

SEC. 4. This act to be in force from and after its passage.

Approved February 13, 1864.

PART FOURTH.

INCORPORATIONS.

INCORPORATIONS.

AN ACT

To Incorporate Frontier Lodge No. 3, of the Independent Order of Odd Fellows, located at Nebraska City, Otoe county, Nebraska Territory.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That J. J. Hochstetter, John Hamlin and N. S. Harding, trustees of Frontier Lodge, No. 3, of the Independent Order of Odd Fellows, and their successors in office, be, and are hereby incorporated by the name of Frontier Lodge No. 3, Independent Order of Odd Fellows, of Nebraska, and by which name they shall be capable of suing and being sued, pleading and being impleaded in all courts, the same as natural persons and with power to hold and convey real and personal property, and to do any and all other things usually done by corporations created for the sole purpose of benevolence and Odd-Fellowship.

SEC. 2. This act to take effect from and after its passage.

Approved January 25, 1864.

AN ACT

To amend an Act entitled "An Act to amend an Act entitled 'An Act to Incorporate the City of Omaha, Approved February 2d, 1857.'"

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section thirty-three of an act entitled an act to amend an act entitled an act to incorporate the City of Omaha, approved February 2d, 1857, be so amended as to read as follows: The council is authorized, annually, to levy and collect taxes, not to exceed five mills on the dollar valuation on all the real

and personal property subject to taxation, under the general laws in said city, for the purpose of defraying the current expenses of said city. The council is also authorized to levy a special tax, if deemed necessary, but not to exceed two mills on the dollar valuation on the assessment return for any one year, for the purpose of improving the streets, and of building and repairing bridges, and also to carry into effect the provisions of section twenty-five of said act, so far as the same relates to fire companies, which special tax shall be payable in lawful money of the United States, or its equivalent only.

SEC. 2. As soon as practicable, after the return of the assessment roll, the council shall meet as a board of equalization, for the purpose of correcting the same, and they shall hold at least three several meetings for the purpose; and before the first of such meetings, they shall give one week's notice in one newspaper published in said city, notifying all persons of the time and place of such meetings, and at such meetings any person feeling aggrieved by anything in the assessment contained, may apply to the council for the correction of any supposed error in the assessment, and if any person returned as refusing to render a list, or to be sworn thereto, can render a satisfactory excuse for such neglect or refusal, the council may in their discretion remit the penalty in such cases provided.

SEC. 3. Section forty of the aforesaid act, is so amended as to read as follows: The council shall have title to, and full control of the streets or alleys, wharves, public grounds, parks and commons of the city, and may cause sidewalks to be paved in the same; and to this end may require owners of lots to pave, or repair the same contiguous to their respective lots, and in case of neglect so to do, after thirty day's notice, the council may order the street commissioner of said city to build or repair such sidewalks, and to assess the cost thereof on the contiguous lot, which shall be a perpetual lien thereon, and if the same be not paid in lawful money of the United States, by or in behalf of the owner of such lot, the city street commissioner may sell the same after giving thirty day's notice in some newspaper published in said city, under such rules and regulations as the council may prescribe; but such sale shall be subject to redemption for the space of six months, by paying in lawful money the amount for which such lot was sold, and interest thereon, at a rate not exceeding fifty per cent. per annum.

SEC. 4. Sections 34 and 35 of the aforesaid act, to which this is amendatory, are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 4, 1864.

ALVIN SAUNDERS.

AN ACT

To vacate a part of the Town Plat of the Town of Greggspport, in Otoe County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That so much of the town plat of the town of Greggspport as is situated on blocks numbered one, two, three, four, five, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, and twenty-three; also the north half blocks six, thirteen, and twenty-four; also all that portion of Greggspport known and designated on the plat as the north addition to Greggspport, be, and are hereby vacated.

SEC. 2. That the title to the streets, lanes, and alleys, upon said tract of land shall revert back to, and be vested in the owners of the lots upon said tract of land, in the same manner as if the same had never been surveyed and platted as a town site.

Approved February 8, 1864.

AN ACT

To incorporate the Camp Creek Cemetery Association of Otoe Precinct, Otoe County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That James Fitchey, George F. Lee, Francis Sim and their successors be, and are hereby made a body politic and corporate in law, with perpetual succession, under the name, style and title of the Camp Creek Cemetery Company of Otoe Precinct, Otoe county, and by that name shall be able and capable in law to have and use a common seal, to sue and be sued, to plead and be impleaded, and to do all such other things as are incident to a corporation.

SEC. 2. That the Camp Creek Cemetery Company shall be able and capable in law to hold, as such cemetery grounds, and to be used for no other purpose, all that real estate, as follows, to wit: commencing at the north-east corner of the north-west quarter of section twenty-six (26) township seven (7) range fourteen (14) and running west eleven and a half ($11\frac{1}{2}$) rods, thence south seventeen and a half ($17\frac{1}{2}$) rods, thence east eleven and a half ($11\frac{1}{2}$) rods, thence north to the place of beginning, containing one acre exclusive of the road on the north and east sides of said tract, and to sell and dispose of the same

in lots, blocks, or otherwise, as they shall see fit for the purposes of sepulcher only.

SEC. 2 That James Fitchey, George F. Lee and Francis Sim, before named, shall have power to lay out and ornament the grounds, to dispose of, and arrange burial lots, and to make such by-laws, rules and regulations, from time to time, for the government of lot-holders as they deem necessary, and for which time expended they shall receive one dollar and fifty cents per day, each, from the revenue derived from the sale of said lots, the balance of funds arising from the said sales shall be expended by them in surveying, fencing and ornamenting said cemetery grounds.

SEC. 4. That any person who shall willfully destroy, cut, break, or remove any tree, shrub, or plant, within the limits of the said cemetery, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in the sum of not less than five nor more than fifty dollars, before any justice of the peace in said county.

SEC. 5. That every lot in said cemetery shall be held for the purpose of sepulture alone, transferable with the consent of said company, and shall not be subject to attachment or execution, and the said cemetery shall be forever exempt from taxation or assessment for any purpose whatsoever, and from attachment and execution.

SEC. 6. That the price of lots in said cemetery, as aforesaid, shall never exceed the sum of twenty cents per square foot.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved February 10, 1864.

AN ACT

To Incorporate the City of Brownville.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That all of the territory within the present limits of the City of Brownville, Nemaha county, together with all additions that may hereafter be made thereto, according to law, is hereby declared to be a City by the name of Brownville.

SEC. 2. The said city is hereby made a body corporate and politic and is invested with all the power and attributes of a municipal corporation, and by that name may sue and be sued, plead and be impleaded, complain and defend in any court of record and any other place whatsoever; may have a common seal, and may take, hold purchase, lease, convey and dispose of any real, personal or mixed estate for the use of said corporation.

SEC. 3. The election of city officers shall be conducted in a manner similar to the election of county and territorial officers.

SEC. 4. There shall be chosen, annually, on the first Monday of

April, a mayor, five aldermen, a clerk, assessor, treasurer, civil engineer, street commissioner and marshal, who shall hold their respective offices one year, and until their successors are chosen and qualified, if in the opinion of the common council the interests of the city require a city attorney, such officer shall be elected in the same manner and for the same term.

SEC. 5. Every legal voter of this Territory, who shall have resided in said city for ten days next preceding any annual election, shall be entitled to vote at such election and shall be eligible to any office in said city.

SEC. 6. The city council of said city shall appoint a suitable person, who, with the city clerk, shall constitute the clerks of election, and shall also appoint three judges of election, which said clerks and judges shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by law for clerks and judges of election under the laws of this Territory, the clerks and judges shall make their returns of election to the city council, who shall be canvassers, and the mayor shall issue certificates of election to the persons elected.

SEC. 7. The mayor, clerk, assessor, treasurer, street commissioner, and marshal, shall give to the city of Brownville such bonds as may be required of them by ordinance, conditioned for the faithful performance of the duties of their respective offices, which bonds shall be approved by the city council and filed with them. Every officer of said city shall, before entering upon the duties of his office, take and subscribe an oath to support the Constitution of the United States and the Laws of this Territory and the Ordinances of said city, and to faithfully and impartially perform the duties of his office.

SEC. 8. It shall be the duty of the mayor to see that the laws of this Territory, and the by-laws and ordinances of the city council, be faithfully executed; he shall be a conservator of the peace, within the city limits; he shall exercise supervision over subordinate officers and examine all complaints for official neglect or misconduct, and recommend to the city council such measures as he deems for the public good; he shall sign all commissions, licenses and permits granted by the city council, and shall perform such other duties as the nature of his office requires; he shall have the custody of the corporate seal, and may take and certify under the same the proof and acknowledgment of deeds and other instruments of writing, which shall be good in any court of this Territory without further authentication; he may also take and certify depositions and affidavits, and the same shall be of like force and effect in any court aforesaid; he shall have, within the limits of said city, the jurisdiction and powers of a justice of the peace in all matters civil and criminal, arising under the laws of this Territory, and for crimes and misdemeanors, his jurisdiction shall be co-extensive with the county; he shall have exclusive jurisdiction of all prosecutions for violations of the by-laws and ordinances of the city. In all other respects, he shall perform the duties of a justice of the peace, and shall be entitled to the same fees; he may, in addition to his fees herein provided, receive such salary as the city council shall by resolution order and direct. He shall keep a docket, as justices are

required to keep, which, in case of his absence or disability for the space of five days, shall be delivered to some justice of the peace in said city, until his return or until his successor is elected and qualified; and such justice receiving said docket, shall act as and have all the powers of the mayor until such vacancy can be supplied by special election.

SEC. 9. The clerk shall have the custody of all books and papers belonging to said city; he shall make record of all proceedings of the city council, whose meetings it shall be his duty to attend. Copies of papers and transcripts from the records, certified by him, under the corporate seal, shall be evidence of the matters therein contained, in all courts of this Territory, and he shall be entitled therefor, except when ordered by the city council, the same fees as are allowed to the clerk of the district court for similar services; he shall countersign all licenses, permits, treasury warrants, and all other official papers of the city council, directing acts to be done or duties performed.

SEC. 10. The assessor shall on or before the first Monday in March of each year, make out a full and fair assessment of all the real and personal property within the city, in the manner required by the laws of the Territory for precinct assessments; and shall return said assessments to the city clerk, who shall make out a duplicate of the same, as county clerks are required to do, and shall deliver said duplicate to the city council. Said assessor shall have the same power and be subject to the same provisions of the same law, as the assessor for the listing of real and personal property for territorial and county purposes, he shall receive the same fees as are allowed to assessors under the general laws of this Territory.

SEC. 11. It shall be the duty of the street commissioner, under the direction of the city council, to superintend the streets, alleys, landings, the construction, repairs, cleansing and lighting the same: the building of sewers, and drains, the purchase of necessary implements of labor, and the employ of laborers, and shall perform all other duties incident to his office.

SEC. 12. The marshal of said city shall be the chief ministerial officer of the corporation, and is hereby intrusted with the powers of a constable, therefore he shall execute and return all processes directed to him by the mayor, and shall attend the sittings of his court. Such process may be served by himself or deputy in any part of the county of Nemaha, he shall suppress all riots, disturbances and breaches of the peace, and apprehend persons guilty of the same; with the consent of the common council he may appoint one or more deputies, being responsible for the correct discharge of their duties.

SEC. 13. The treasurer shall receive all moneys belonging to the city, and keep an account of all receipts and expenditures in such manner as the city council shall direct. All moneys paid by him as treasurer shall be drawn in pursuance of an order of the city council, signed by the mayor and countersigned by the clerk. He shall exhibit to the city council at least fifteen days before any annual election, a full account of receipts and expenditures since last report, and the condition of the treasury.

SEC. 14. The civil engineer shall prepare plans, specifications and estimates, when thereto directed by the city council, of proposed public improvements, and shall superintend the opening of public streets, and the preservation of the true lines thereof, and perform all other duties pertaining to his office.

SEC. 15. All other officers elected or appointed, shall perform the duties incident to their respective offices as required by this act, and the by-laws and ordinances of said city made in pursuance thereof.

SEC. 16. The mayor and alderman of said city shall constitute the common council, and shall meet within ten days after the annual election, and at such other times as they shall by resolution direct. The mayor shall preside, or if absent, one of the councilmen chosen therefor. The mayor shall have the casting vote when a tie, but not otherwise.

SEC. 17. The city council may take down any building or other structure liable to fall and endangering life or property, if the owner or agent thereof, after five day's notice fails to repair or remove the same, and the owner of such premises shall be liable to an action for the expenses of the removal of the building or structure.

SEC. 18. They shall have the management and control of the finances of the city, and of all property real and personal, belonging thereto, and shall have the additional powers herein provided, and may make and publish by-laws and ordinances, necessary to enforce the same. The common council shall have power to pass ordinances.

First. To fill up or drain grounds wherever the water has or may become stagnant, at the expense of the owner thereof.

Second. To prevent and regulate the use of fire arms, fire-works, or other sports, or other thing or practice tending to endanger person or property.

Third. To prohibit the continuance of noxious trades or business, whenever the health or welfare of the city shall require the same.

Fourth. To establish cemeteries or burial places, within or without the city limits, and to provide for the sanctity of the dead.

Fifth. To preserve peace and good order, prevent vice and immorality, and quell riots and disorderly assemblies.

Sixth. To establish and regulate the police of the city.

Seventh. To suppress gaming and gaming houses, and houses of ill fame, to prohibit and destroy instruments and devices for gaming, and restrain fraudulent practices within the city.

Eighth. To compel the owner or occupant of any building that is filthy or unwholesome to cleanse and abate the same.

Ninth. To regulate and restrain theatrical exhibitions, public shows and other exhibitions for which money is demanded and received, *Provided*, that lectures on scientific, historic, benevolent or literary subjects, shall not be deemed within the provisions of this section.

Tenth. To prevent immoderate driving or riding, and cause the person guilty of the same, to be stopped thereat by any citizen of said city.

Eleventh. To prevent the encumbering of streets, squares, sidewalks and crossings, with vehicles or other substance, or material whatever, interfering with the free use of the same.

Twelvth. To impound cattle, horses, swine, or other animals, running at large, and sell the same for the penalty and costs of keeping.

Thirteenth. To prevent the deposit of any unwholesome substance within the city limits, and punish persons guilty of the same, and to remove or destroy putrid animal or vegetable matter therein, if the person occupying the premises fail to do so upon notice given, the city shall have an action against him.

Fourteenth. To keep clean the sidewalks.

Fifteenth. To remove persons having infections or pestilential diseases.

Sixteenth. To establish and regulate public pounds.

Seventeenth. Concerning the lighting of streets, public grounds and buildings.

Eighteenth. Concerning the duties of all officers appointed by the city council, and their compensation.

Nineteenth. To regulate the selling, weighing and measurement of hay and wood.

Twentieth. To prevent the erection of wooden buildings in such part of the city as they think proper.

Twenty-first. To establish a board of health, and invest it with the necessary powers.

SEC. 19. For the removal and abatement of nuisances, to carry out and enforce sanitary regulations, and for the apprehension of vagrants or disorderly persons. The city council shall have jurisdiction one mile beyond the corporate limits of the city.

SEC. 20. The city council shall have power to make other by-laws not inconsistent with the laws of this Territory, and necessary to carry out the objects of the corporation; and enforce the observance of all by-laws and ordinances, by enacting such penalties for their violation, not exceeding fifty dollars for any one offense, which may be recovered in an action at law, with costs, as they shall deem right and proper.

SEC. 21. Every by-law enforcing a penalty or forfeiture for the violation thereof, shall, before the same takes effect, be published two weeks successively in some newspaper printed in the city, *Provided*, that in case of riot, pestilence, or other impending danger requiring the immediate operation of such ordinance, it shall take effect as soon as proclamation is made thereof by said city council, and posted at five public places in said city.

SEC. 22. All actions brought to recover any penalty or forfeiture incurred under this act, or by-laws made in pursuance of it, shall be brought in the corporate name of the city, and recoveries upon the same when collected, shall be paid into the treasury of said city. The process in every such action shall be a warrant.

SEC. 23. If the penalty or forfeiture upon which judgement is obtained is not paid or replevied, and there are no goods or chattels out of which to make the same, the defendant may be committed to the jail, or work house for any period not exceeding thirty days.

SEC. 24. The city council shall have exclusive power over the

streets, highways, alleys and bridges within said city, and to lay out, survey, open, straighten, widen or otherwise alter the same to make repairs thereto, and to construct and establish sidewalks, crossings, drains and sewers. They may cause buildings and structures, in the way of any street or other public improvement, to be taken down and appropriated upon the payment of damages as hereinafter provided; they may also take and appropriate any vacant lots within said city limits, for the purpose of a cemetery or burial place, also upon payment of damages as hereinafter provided.

SEC. 25. There shall be appointed by the board of county commissioners of Nemaha county once in each year, upon the application of the city council, five commissioners, who shall be freeholders of the city, to appraise the damages or benefit accruing to the owner of any land or lot through which any street is proposed to be constructed or altered, or any building thereon appropriated, as provided in the preceding section, and also to appraise the value of any lot taken and appropriated for the use of a cemetery or burial place.

Such commissioners shall at the time of their appointment, take and subscribe an oath, faithfully to perform the duties of such commissioners, which shall be endorsed upon, or attached to their appointment, and filed with the clerk of the city. Twenty-one days notice shall be given such commissioners by the city council through the city clerk, of any appraisement they may require to be made; a like notice shall be given by personal service or by leaving the same with some person of suitable age at their place of abode, to each of the owners or agents thereof, of lots or land upon or through which the public improvement or street is proposed, to be made or which is proposed to be taken and appropriated for a cemetery. If the owners are unknown or non-residents, publication of the same in some newspaper of the city for two weeks shall be deemed equivalent to such notice.

SEC. 26. Such commissioners, or a majority of them shall, at the time and place indicated in such notice, proceed to an examination of the real estate proposed to be appropriated as aforesaid and shall estimate.

First. The expense of the improvement contemplated.

Second. What part thereof, if any, ought to be borne by the city.

Third. What real estate, if any, would be benefitted by the improvement through or upon which the same is made, specifying the same in parcels, with the names of the owners, if known, and the proportion of benefit each would receive; they shall view the premises and receive any evidence touching the question before them, and may for that purpose administer oaths to witnesses examined in relation thereto.

They shall report upon each of the specifications above indicated, and within three days thereafter file the same with the clerk of the city.

Fourth. If the property proposed to be taken for the use of a cemetery, said commissioners shall appraise the same at its value in cash.

SEC. 27. When such report is filed, as in the preceding section required, the city council, if it accepts the terms of the same, shall

direct the treasurer of the city to tender the owner or owners of such real estate, the damages awarded by such commissioners, or if not found within the city, or the award is not accepted, then the same shall be kept by the treasurer as a special deposit, subject to the order of such owner.

SEC. 28. If the city council, by a vote of two-thirds of its members, determine to make the appropriation of real estate for such improvements, it shall cause an assessment list to be made, by transcribing so much of the report aforesaid as describes the parcels of real estate to be benefitted by the improvements, with the name of the owner, if known, and the amount of benefit which each would receive thereby, directing such amount to be assessed upon such parcels of real estate respectively. The assessment list shall resemble in form, as nearly as practicable the tax list, a copy of which shall be retained by the clerk and the original delivered to the treasurer.

SEC. 29. When the owners of two-thirds of the whole line of the lots bordering on any street or alley in the city, or a part of any street or alley not less than one whole square between any two streets crossing the same and measuring only the front line of such lots, shall petition the mayor and council to have the sidewalks graded and paved, or the whole width of the street graded, or graded and paved, or for either kind of improvement, or altogether, as hereinafter specified, the mayor and council shall cause the same to be done by contract given to the best bidder, after advertising to receive proposals therefor.

SEC. 30. In all contracts specified in the last preceding section, the cost thereof shall be estimated according to the whole length of the street or alley, or the part thereof to be improved, per running foot, and the city shall be liable to the contractor for so much thereof only as is occupied by streets or alleys crossing the same, or by public grounds of the city bordering thereon, and the owners of the lots bordering on such street or alley or the part thereof to be improved, shall be liable to the contractor for their proportion of the cost, in proportion to the length of the line of the lots bordering thereon and owned by them.

SEC. 31. When any such contracts shall be made and shall be in progress of fulfillment, the mayor and council shall have power to cause estimates to be made, from time to time, of the amount of work done by the contractor, and to require such amount to be paid to him, deducting a reasonable per centage to secure the completion of the contract, until the whole shall be finished, by the owners of the lots bordering on the street or alley or the part thereof to be improved in the proportion specified in the next preceding section.

SEC. 32. In case any of the owners of lots shall fail or refuse to pay the amount due by them to such contractor upon any such estimate, as provided for in the next preceding section, said mayor and council shall, at the request of the contractor proceed to collect the amount so assessed by an action in the name of said city against the owner to pay the same over to the contractor, and such estimate shall be a lien upon the property assessed until the same is paid.

SEC. 33. The city council may appeal from the decision of the com-

missioners, as set forth in their report, within twenty days from the filing of the same, and any owner of land aggrieved by such report may, in like manner, appeal within the time specified to the district court of Nemaha county, upon filing a bond with the city clerk, for costs.

SEC. 34. When the owner of any such land or buildings, appropriated as aforesaid, shall be an infant or of unsound mind, no proceedings shall be had affecting the rights of such persons until a guardian therefor be appointed by the probate court and such guardian shall have given security to the satisfaction of said court, for the performance of the trust.

SEC. 35. Loans may be made by a vote of two-thirds of the city council, in anticipation of the revenue of the current and following year and payable within that period, but the aggregate amount of such loan, in any one fiscal year, shall not exceed the levy and tax authorized by this act for the municipal expense for the same year.

SEC. 36. Any member of the city council may be expelled or removed from office by a two-thirds vote of the whole number elected, but not a second time for the same cause. Any officer of said city, whether elected or appointed, may be removed by a like vote. The city council shall make provision in their by-laws as to the mode in which charges shall be preferred and a hearing of the same had.

SEC. 37. Whenever any suit shall be instituted by said city, it shall not be necessary to aver its corporate organization, or the publication of its by-laws or ordinances, unless the same is controverted by affidavit.

SEC. 38. Said city council shall have the exclusive right to license or prohibit the sale of intoxicating liquors, within said city, and to license or prohibit ten-pin alleys and billiard tables. They may, in addition to the license required under the general laws of this Territory, require a license, not to exceed five hundred dollars, for the sale of intoxicating liquors, and not exceeding fifty dollars for each billiard table or ten-pin alley, which license shall be paid annually, and shall go into the city treasury and belong thereto.

SEC. 39. The mayor may, when he deems that the peace and good order of the city requires it, order, by proclamation, the closing of all places where intoxicating liquors are sold at retail, and shall have the power to enforce such order, and the city council shall, by ordinance, provide for the enforcement of such order and prescribe the penalty for persons failing to obey the same.

SEC. 40. The city council shall have power to levy and cause to be assessed and collected, in each year, an ad valorem tax of not more than two mills on the dollar, on all property subject to territorial or county taxation, within said city, and also a poll-tax of not exceeding two dollars on every male inhabitant, sane and not a pauper, of the age of twenty-one years and upwards residing therein, and also a specific tax on vehicles used to run for passengers, and on each dog owned by a resident of said city, of not more than ten dollars.

SEC. 41. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed; *Provided, however,* that all rights, im-

munities, and privileges granted to said city, under existing acts, are hereby continued and confined and all property acquired by the city, under existing acts, shall continue to be vested in said city, under this act; and provided further, that all assessments of taxes and all debts of any nature whatsoever, due and owing to said city, shall be paid over to the treasurer of said city, and said city shall have the same right to enforce the payment of the same as if this act had not been passed, and all debts owing by said city, shall continue under this act, and provided further, that the present city officers shall hold their offices until the first election under this act and until the officers of said city, as provided for in this act, are elected and qualified.

SEC. 42. This act shall take effect and be in force from and after its passage.

Approved February 12, 1864.

AN ACT

Supplemental to an Act entitled "An Act to Incorporate the City of Brownville."

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That an act entitled "An act to incorporate the City of Brownville," passed at the present session of the legislative assembly, be amended as follows, to wit: In section 40 strike out the word "two" before the word "mills" and insert the word "ten."

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Incorporate the Nebraska Immigrant Association.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That Alvin Saunders, Dwight J. McCann, Cornelius O'Conner, John C. Denser, Theodore Hill, Lewis Allgewahr, John P. Becker, S. Bowen, Henry Grebe, Frederick Hedde, P. W. Hitchcock, Francis A. Hoffman, T. M. Marquette, A. S. Paddock, H. Rohwer, Frederick Rennur, and Augustus Roeder, their associates and successors be, and they are hereby constituted and created a body corporate and politic, under the name and style of Nebraska Immigration Association, and by that name and style to remain in perpetual succession, with full power of making contracts, of suing and being sued,

of pleading and being impleaded, of having a common seal, and of making such rules and regulations for its government as it may deem proper, not inconsistent with the Constitution and Laws of the United States or the Territory (State) of Nebraska.

SEC. 2. The objects contemplated by this act of incorporation are to make the advantages, resources, and climate of this Territory (State) known abroad to induce immigration from Europe and Eastern States to our fertile plains and to assist in the developments of the riches secreted in the bowels of the earth throughout this Territory.

SEC. 3. The said association shall have power to organize and establish county and city associations, upon application from five of its members in good standing, said associations being subordinate and auxiliary to the parent association created by this act, but that said county and city associations shall be entitled to the rights of making their own by-laws and choosing their own officers and in every way controlling and regulating their own government; *Provided*, such by-laws and regulations do not conflict with those of the parent association or the laws of this Territory now in force or hereafter to be passed.

SEC. 4. The above named individuals shall constitute the board of trustees until a new election takes place, and they shall have power to adopt such constitution and by-laws as may be necessary to carry out the objects of this enactment, not inconsistent with the laws of this Territory now in existence or hereafter to be passed.

SEC. 5. All further action for the working of the association, is left to be provided for by the constitution and by-laws, and no election for officers can take place until such constitution and by-laws have been adopted.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Incorporate All-Soul's College.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That John Q. Goss, David Leach, William Cleburn, O. C. Dake, and Stephen D. Bangs, their associates and successors, be, and are hereby created a body corporate, by the name and style of All-Soul's College, to be located at or near Bellevue, in Sarpy county, Nebraska Territory.

SEC. 2. For the present, the aforesaid individuals shall constitute the board of trustees of said institution.

SEC. 3. The object of said corporation shall be the promotion of the general interests of education, and to qualify students to engage in

the several pursuits and employments of society, and to discharge, honorably and usefully, the various duties of life.

SEC. 4. The corporate powers hereby created shall be such as are usually conferred on similar bodies corporate, viz: to have perpetual succession, to make contracts, sue and be sued, to plead and be impleaded, to grant and receive by its corporate name, to do all other acts the same as natural persons, to accept, acquire, purchase or sell property, real or personal or mixed, in all lawful ways, to use, employ, manage or dispose of all such property and money belonging to such corporation in such manner as shall seem to the trustees best adapted to promote the objects aforementioned; to have a common seal, and to alter the same at pleasure; to make such by-laws for its regulation as shall not conflict with the Constitution of the United States or the Organic Law of this Territory, and to confer on such persons as shall be considered worthy, all such degrees of merit and honor, as are usually conferred by colleges and universities.

SEC. 5. The trustees of the corporation shall have authority, from time to time, to prescribe and regulate the course of studies to be pursued in said institution in the preparatory and other departments attached thereto, and to fix the rates of tuition, room rent, and college expenses, to employ professors, tutors, and such other officers and agents as may be necessary in managing the institution, to define their duties, powers and employments, to remove either or all of the instructors, officers, or agents of the institution as said trustees shall deem its interests may require; to fill vacancies of such instructors, officers or agents; to purchase lands, erect suitable buildings, to purchase books, chemical and philosophical apparatus, and other suitable means of instruction.

SEC. 6. This corporation shall have power and authority to raise an endowment fund, by sale of scholarships exclusive of such sums as may be given by donation, bequest, or otherwise, to be devoted exclusively to the purposes of education.

SEC. 7. The trustees of said college shall not exceed seven in number, inclusive of the president or principal of said institution, who shall be, *ex officio*, a member of the board of trustees, said trustees in person or by proxy, shall elect their successors, annually, on the first Wednesday in July, at Bellevue, Sarpy county, Nebraska.

SEC. 8. The trustees shall have power to remove any trustee from the office of trustee for dishonorable or criminal conduct; *Provided*, that no such removal shall take place without giving to such trustee notice of the charges preferred against him, and an opportunity to defend himself before the board, nor unless two-thirds of the whole number of trustees shall concur in such removal, the trustees shall also have power to fill any vacancy in their number occasioned by death, resignation or removal out of the Territory or State, a majority of trustees shall be sufficient to constitute a quorum to do business.

SEC. 9. The treasurer of said institution, and all other agents, when required by the trustees, before entering upon the duties of their appointment, shall give bonds for the security of the corporation, in such penal sum and with such securities as the board of trustees shall ap-

prove, and all process against said corporation shall be by summons and service of the same by leaving an attested copy with the treasurer of said institution, at least thirty days before the return day thereof.

SEC. 10. That the provisions of this act shall be interpreted liberally for every beneficial purpose, hereby intended, and no omission to use any of the privileges hereby granted, shall cause any forfeiture of the same, nor shall any gift, grant, conveyance, or devise, to, or for the benefit of the corporation, be defeated or prejudiced by any misnomer, misdescription or informality whatever; *Provided*, the interests of the parties can be shown or ascertained beyond all reasonable doubt.

SEC. 11. This act shall take effect from and after its passage.

Approved February 15, 1864.

AN ACT

To Incorporate the Nemaha Valley Seminary and Normal Institute.

WHEREAS, J. N. McCasland, D. Butler, J. W. Hollinshead, James B. Judd, F. F. Siming, J. S. Turner, Joseph Fry, John Manning, Joseph Woods, and various other persons have heretofore become associated together for the purpose of erecting suitable buildings and establishing a seminary in the village of Pawnee City, Pawnee county, Territory of Nebraska, in pursuance of which association, said persons above named, and their associates, have erected buildings and established a seminary, as aforesaid; therefore,

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That* J. N. McCasland, D. Butler, J. W. Hollinshead, James B. Judd, F. F. Siming, J. S. Turner, Joseph Fry, J. W. Manning and Joseph Woods, and the other stockholders of said association, mentioned in the preamble hereof, and their successors and assigns be, and they are hereby created a body politic and corporate, by the name and style of the Nemaha Valley Seminary and Normal Institute, and by that name and style to have perpetual succession, for the purpose of promoting collegiate and academic education.

SEC. 2. All the subscriptions, moneys, receipts, personal property, real estate, and other assets and claims in favor of, and all liabilities against the said Nemaha Valley Seminary and Normal Institute, shall legally vest in and vest upon the trustees of said Seminary, and their successors in office, who are hereby constituted a corporate board of trust for said Seminary.

SEC. 3. The trustees of said Seminary are hereby fully authorized and empowered, in their corporate name, to collect all subscriptions or donations, devises or bequests which may have heretofore been made to and for the use and benefit of the said Seminary, and to make and

alter such by-laws for the government of the incorporation, as they may think just and proper.

SEC. 4. The persons named in the first section, and their successors, shall be the trustees of said Seminary and shall have power to erect buildings, to appoint a president, professors and teachers, and any other agents or officers, to confer degrees in the liberal arts and sciences, and to do all other things for the encouragement of religion and learning which are lawfully done by the most approved seminaries and colleges in the United States.

SEC. 5. If any gift, grant, devise or bequest should be made to the corporation, for particular purposes, accordant with the design of this institution, and the trustees shall accept the same, it shall be applied in conformity with the express condition prescribed by the grantor, deviser or donor.

SEC. 6. The trustees shall have power to appoint a secretary and treasurer, and to require bonds with security, from any officer or agent conditioned for the faithful performance of the duties imposed upon them.

SEC. 7. The board of trustees of said Seminary shall consist of nine persons, and their successors, who shall hold their offices for terms which shall be prescribed in the by-laws herein provided for.

SEC. 8. That all of whatever kind or description of property belonging to or owned by said corporation, or held in trust by any person or persons for the use thereof, shall forever be free from all taxation for any and all purposes; *Provided*, the amount in value does not exceed fifty thousand dollars.

SEC. 9. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

PART FIFTH.

COUNTY AND PRECINCT HERD LAWS.

HERD LAWS.

AN ACT

To amend an Act entitled "An Act to Restrain Cattle, Sheep, and Swine from running at large in Richland and Fontenelle Precincts, in Washington county," Approved January 11th, 1861.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That section one of an act entitled "An act to restrain cattle, sheep, and swine from running at large, in Richland and Fontenelle precincts, in Washington county," approved January 11th, 1861, be amended by adding after the word "Territory," in said section, the following words, to wit: *Provided,* that cattle, sheep, and horses shall not be so restrained from the first day of December to the first day of May.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 10, 1864.

AN ACT

To Restrain Swine from Running at large in the Precinct of Nebraska City, Otoe County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That from and after the first day of April, A. D. 1864, swine shall be restrained from running at large in the precinct of Nebraska City, Otoe county.

SEC. 2. Any swine running at large after April first (1st,) 1864, are liable to be taken up as estrays, whether the owner be known or not, and the owner shall not be entitled to demand the animals so

taken up, unless he proceed as in case of estrays, to prove his property and pay costs as allowed in the case of estrays, and also damages, and the costs of assessment.

Approved February 12, 1864.

AN ACT

To Repeal an Act entitled "An Act to Restrain Sheep and Swine from running at large, in the county of Burt," so far as it applies to Arizona Precinct of said county, Approved December 31st, 1861.

SECTION. 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That an act entitled an act to restrain sheep and swine from running at large, in the county of Burt, approved December 31st, 1861, be, and the same is hereby repealed, so far as the same relates to Arizona precinct, of said county, and so far as the same relates to sheep, in Decatur precinct, of said county.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To restrain Horses and cattle from running at large, in Niobrarah Precinct, L'eau-qui-Court County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That all horses and cattle are hereby restrained from running at large during the night time in Niobrarah precinct, L'eau-qui-Court county, during the months of September, October and November.

SEC. 2. That all damages to property committed by such stock, so running at large, shall be paid by the owner of said stock, and the person whose property is damaged thereby, may have a lien upon said trespassing animals, for the full amount of damages and costs, and enforce and collect the same by the proper civil action.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To amend an act entitled "An Act to restrain cattle, sheep and swine from running at large in Cuming City Precinct, in Washington County, Nebraska Territory," Approved January 2, 1862.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the first section of an act entitled "An act to restrain cattle, sheep and swine from running at large in Cuming City precinct, in Washington county, Nebraska Territory," approved January 2d, 1862, be, and the same is hereby amended so as to read as follows: that cattle, sheep, swine, horses and mules shall be restrained from running at large in the Cuming City precinct in Washington county, Nebraska Territory, except within the incorporate limits of Cuming City, from the first day of April until the first day of December in each year.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To restrain stock from running at large in the Counties of Clay, Lancaster and Seward.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That all cattle, horses, mules, asses, sheep and swine, are hereby restrained from running at large in the counties of Clay, Lancaster and Seward of this Territory.

SEC. 2. The owner or owners of said stock permitting the same to run at large, in violation of the provisions of this act, shall be liable to the person or persons injured by said stock, in an amount double the actual value of any property destroyed, or injury committed by the same, if shown to have been between the time of sunset and sunrise, but if said destruction or injury were committed in the day time, then the owner of said stock shall be liable only for the actual damage done to said property.

SEC. 3. The person injured by such destruction, or other damage to his property, shall have a lien on the stock committing the same, until such damage is fully paid and compensated, and in case the par-

ties to such claim cannot agree, then the amount of such damage shall be decided by arbitration.

SEC. 4. When such damage shall have been committed upon the property of any person in the aforesaid counties, the said person may impound said stock, and shall notify the owner of the same, if known, in writing, specifying such particulars as are pertinent to the case, whereupon the owner shall select one disinterested person to serve as arbitrator on his part, the person whose property has been injured, shall select one, and if said arbitrators cannot agree upon the amount of such damage, they shall select a third, and the decision of any two of said board shall be final in the premises.

SEC. 5. If the owner of such stock shall fail to make such adjustment or compensation for the said damage, within thirty days from the commission of the said injury, then the person injured thereby, may give a further notice in writing to said owner, that he will select the said arbitrator, who shall appraise the said damage, and thereupon the person complaining shall proceed to sell the said stock at public auction, after posting at least three public notices of such sale, for three weeks preceding the same, in the precinct where the said damage was committed.

SEC. 6. If an owner can be found of such stock, the taker up of the same shall proceed in the same manner as if the same had been taken up under the provisions of the estray law of this Territory, except that the person taking up the same, shall be entitled to recover the aforesaid damages and costs, as provided in section two, of this act, in the same manner as the ordinary expense of keeping the same are collected.

SEC. 7. The arbitrators referred to in this act, shall receive the fee of fifty cents each, to be recovered from the sale of said stock, or recovered from the owner of the same, but such fees shall be paid in by the person complaining, if the owner of the said stock, neglect or refuse to pay the same.

Approved February 15, 1864.

AN ACT

To restrain stock from running at large in Hall County, and in Kelly Precinct, Douglas County, Nebraska Territory.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That from and after the first day of May to the first day of December, cattle, sheep, horses, mules and swine, shall be restrained from running at large, during day or night, and from the first day of December to the first day of May, during the night, in Hall county; and in the Kelly precinct in Douglas county, Nebraska Territory.*

SEC. 2. That when any such stock shall be found upon the premises of another, it shall be lawful for the owner or person in possession of said premises, to impound said stock, and if the owner of said stock can be found, and is known to the taker up, it shall be the duty of said taker up to notify him within two days, by personal service or by leaving a written notice at his usual place of residence, with some member of his family over the age of fourteen years, of the taking up of said stock, describing it, and requiring him to forthwith take the said property, after making full payment of all damages and costs to the taker up.

SEC. 3. In case the parties cannot agree as to the amount of damages and cost, each party may choose a man, and in case either party refuses so to choose a man, then the nearest justice of the peace of the precinct shall choose a man instead, and in case the two men chosen cannot agree, they shall choose a third man, who after being duly sworn for the purpose within, the three, or a majority of them, shall proceed to assess the damages, possessing for that purpose the general powers of arbitrators, and the said arbitrators shall make an award in writing and their decision shall be final; from which there shall be no appeal by either party, a copy of which award shall be filed with the nearest justice of the peace in said precinct, and shall operate as a judgment at law, and execution shall issue at the request of the plaintiff, for the collection of damages and costs, as in other cases.

SEC. 4. And if the owner fail to appear and pay all damages and costs as aforesaid to the taker up, after two days notice of such decision, the taker up shall have full power and authority, to sell such trespassing animal or animals by giving six days notice, by posting up three written notices of the time and place of sale, or so many thereof as shall be sufficient to pay all damages and costs arising by virtue of such taking up and sale, and the surplus, if any, to be paid to the said justice, to be held by him subject to the order of the owner of the stock so sold.

SEC. 5. In case the owner of said stock is not known to the taker up of said stock, the taker up of said stock shall in such case proceed as provided by the law regulating estrays.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To restrain Sheep and Swine from running at large in Dixon County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That from and after the first day of*

March, A. D. 1864, sheep and swine shall be restrained from running at large in the county of Dixon.

SEC. 2. That all damages to property committed by such stock so running at large, shall be paid by the owner of said stock, and the person whose property is damaged thereby, may have a lien upon said trespassing animal for the full amount of damages and costs, and enforce and collect the same, by the proper civil action.

SEC. 3. This act shall take effect and be in force from and after the first day of March, A. D. 1864.

Approved February 15, 1864.

AN ACT

To restrain Stock from running at large during the night in Pawnee County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That it shall not be lawful for horses, cattle, mules, sheep and swine to run at large between the hours of sunset and sunrise in Pawnee county.

SEC. 2. If any of the above mentioned stock shall break into any inclosure, or otherwise do damage during the night, the owner of said stock shall pay all damages, and the party injured shall have a lien upon the trespassing animals until such damage is paid; and no previous exemption law shall prevent such trespassing animals from being sold for damages accruing under this act.

SEC. 3. Whenever two parties fail to agree as to the amount of damage done, they shall submit the cause to three arbitrators, each party choosing one man, and the two men thus chosen shall choose a third, and if either party shall willfully neglect or refuse to submit the case to arbitration, then the nearest justice of the peace shall, upon application, appoint three persons, and the persons thus chosen or appointed shall proceed to examine and decide the case; and no court shall entertain for trial any case that has been tried before such arbitrators, unless the party intending to prosecute shall have given written notice to the adverse party of such intention, within ten days after the decision of the arbitrators is rendered, and shall give security to the court for the payment of all damages and costs that may accrue.

SEC. 4. The arbitrators shall make their decision in writing with their names subscribed thereto, and the agreement of two of them shall be sufficient to a valid decision.

SEC. 5. The arbitrators shall be entitled to receive one dollar each for their services; to be paid by the party against whom the decision is given; *Provided*, that if the amount of damage awarded does not exceed the amount that has been offered previous to the day of trial, then in that case the costs shall be paid by the opposite party.

SEC. 6. If the damages are not paid or satisfactory security given therefor, within thirty days after the decision of the arbitrators is given, where no appeal has been taken, the party to whom such damage is awarded may proceed to collect the same by law, and the award of the arbitrators in writing, as provided for in this act, shall be received in any court as a valid claim.

SEC. 7. This act shall take effect and be in force from and after the first day of April.

Approved February 15, 1864.

AN ACT

To restrain Stock from running at large during the night in Wyoming, Delaware, McWilliams, Syracuse, Hendricks, Camp Creek and Nebraska City Precincts, Otoe County, Nebraska Territory.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That from and after the passage of this act, all horses, cattle, mules, swine and sheep, are restrained from running at large during the night in Wyoming, Delaware, McWilliams, Syracuse, Hendricks, Camp Creek and Nebraska City precincts, in Otoe county, Nebraska Territory, from the fifteenth day of April until the fifteenth day of December, and the night shall be considered from the close of daylight in the evening, to the commencement of daylight in the morning.

SEC. 2. That all damages done to property by such stock running at large, shall be paid by the owner of such stock, and the person whose property is damaged thereby, may have a lien upon such trespassing animals for the full amount of damage and cost of collection, and the same may be recovered by the proper civil action.

SEC. 3. That when any such trespassing stock shall be found on or about the premises where the trespass was committed, it shall be lawful for the owner or occupant of the premises, where the trespass was committed, to take such stock into custody, and if the owner of such trespassing stock shall be known by the person taking up such, and can be found in the precinct, he shall be notified of such fact in person or by written notice left at his usual place of residence, requesting him to forthwith take the said stock, first paying all damages and the cost to said owner or occupant.

SEC. 4. In case the owner of said stock cannot be found in the precinct, or is not known as herein set forth, the taker up shall proceed with the same, as with estrays.

SEC. 5. This act to take effect from and after its passage.

Approved February 15, 1864.

AN ACT

To restrain Swine from running at large within the limits of Richardson County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That from and after the first day of April A. D. 1864, all swine shall be restrained from running at large within the limits of Richardson county.*

SEC. 2. That all damages to property committed by such stock running at large, shall be paid by the owner of said stock, and the person whose property is damaged thereby, shall have a lien upon said trespassing animals for the full amount of damages and costs, and the person whose property is damaged may enforce and collect the same by the proper civil action, or sell so many of the said trespassing animals as shall be sufficient to pay all damages and costs in the premises, as provided in section four (4) of this act.

SEC. 3. That when any such stock shall be found upon the premises of another, it shall be lawful for the owner of, or any person in possession of said premises, to impound the said stock; and if the owner of said stock be a resident of the county, and known to the taker up, it shall be the duty of said taker up, within forty-eight hours after such taking up, to notify the said owner by personal service, or by leaving a copy at his or her usual place of residence, with some member of his family over the age of fourteen years, of the taking up said stock, describing the same and requiring him forthwith to take the said property away, after first making full payment of all the damages and costs to the taker up or some legal officer in the premises.

SEC. 4. And if the owner fail to appear and pay all damages and costs as aforesaid to the taker up, within twenty-four hours after service of the notice specified above, the taker up shall have full power and authority to sell said trespassing animal or animals, by giving six days notice, by posting up three written notices of the time and place of sale, in the precinct where the trespass was committed, or so many thereof as shall be sufficient to pay all damages and costs arising by virtue of such taking up and sale.

SEC. 5. Before selling the trespassing animal or animals as before specified, in case the parties cannot agree as to the amount of damages and costs, each party may choose a disinterested citizen of the precinct where the trespass was committed, and in case the two men chosen cannot agree, they shall choose a third man, who shall, after having been duly sworn for the purpose, proceed immediately to assess the damage done, and they shall possess all the powers of arbitrators, and shall be chosen on the day notice is served, as mentioned

in section three of this act, and the said arbitrators shall make an award in writing, and their decision shall be final, from which there shall be no appeal by either party.

SEC. 6. In case the owner of said stock is not known or found in said county as herein set forth, the taker up of said stock shall in such case, have full power and authority to sell the same, by giving ten days notice, by posting as in section four, and all moneys, after paying damages and costs, shall be paid to the county treasurer of said county; and if not called for within one year shall be paid into the county school fund.

SEC. 7. This act shall take effect and be in force from and after the first day of April, A. D. 1864.

Approved February 15, 1864.

PART SIXTH.

COUNTIES, COUNTY SEATS AND
BOUNDARIES.

COUNTIES, COUNTY SEATS AND BOUNDARIES.

AN ACT

To change and redefine the Boundaries of Hall County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That* hereafter the boundaries of Hall county shall be as follows, to-wit:

Beginning at the north-east corner of township number sixteen (16) north range, number eight (8) west, thence due south to the southern bank of Platte river; thence westwardly, following said southern bank of Platte river to its intersection with the west line of range number twelve (12) west; thence due north with said line to the north-west corner of township number sixteen (16) north, range twelve (12), west; thence due east with the line of the fourth standard parallel to the point of beginning.

SEC. 2. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved February 1, 1864.

AN ACT

Relative to changing the County Seat of Burt County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That* [if] a majority of the legal voters of the county of Burt shall petition the county commissioners of said county to call an election to relocate the county seat of said county, it

shall be the duty of said commissioners to give notice of an election to be held for this purpose, which said election shall be called within one month from the reception of said petition by said county commissioners.

SEC. 2. That the persons voting shall state on their ballots the town where they desire the county seat located, and the town having the majority of the votes cast, shall be the county seat of said county.

SEC. 3. This act shall be in force from and after its passage, and until the first day of January, A. D. 1866, and shall then expire of its own limitation.

Approved February 8, 1864.

AN ACT

In relation to the Indebtedness of Dakota and Cedar Counties, and to determine the amount thereof.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That Henry Ream, Jerrold Dillon and Thomas L. Guffey, be, and they are hereby appointed a board of commissioners to investigate and determine the amount of the indebtedness of Dakota county, and John McConbry, Jacob Braugh, and Saby Strong, as a board of commissioners to investigate and determine the amount of the indebtedness of Cedar county, and for other purposes, named in this act.

SEC. 2. It shall be the duty of said commissioners to meet at the county seat of their respective counties, on the first day of April, A. D. 1864, for the transaction of business, and shall, after having been duly sworn to faithfully and impartially discharge their duties according to the provisions of this act, proceed to give notice by publication in two or more newspapers, published in the Territory, for four consecutive weeks, to all persons holding county warrants, or other evidences of county indebtedness, to present the same, at a time and place to be specified in said notice, which shall not be less than thirty nor more than sixty days from the date of the last publication, for examination and cancellation.

SEC. 3. That the said boards of commissioners in their respective counties, shall meet at the times specified in said notice, for a period of not less than ten days, and shall receive and examine all county orders or other evidences of county indebtedness which shall be presented, and determine whether the same has been legally issued and is not fraudulent; they shall determine the amount due in said orders or order, and order the county commissioners to issue an order on the county* for the amount so found to be due, and the county commissioners are authorized and directed to draw such orders as may be

directed by said boards of commissioners in their respective counties aforesaid.

SEC. 4. And the said commissioners herein provided for, shall adjourn at the end of their first session, herein provided for, for the period of four months, and give public notice of the time and place to which said commissioners adjourn, and request all persons, company, or corporations to present any warrant, county order or other evidence of indebtedness, to said board at such adjourned meeting; such adjourned meeting shall continue in session for the period of six consecutive days, and any person or persons, company or corporations, feeling aggrieved at the award of said commissioners, shall have the right to appeal from the decision of said commissioners to the district court, at any time within five days after such decision shall have been rendered, and not thereafter; such appeal shall be taken in the same manner, and under the same rules and regulations as appeals are taken from courts of justice of the peace to the district court, and if such appeal shall not be taken within the time prescribed by the provisions of this act, the award of said commissioners shall be final and conclusive in the premises.

SEC. 5. *And be it further enacted*, That said commissioners shall have power to send for persons and papers, and shall have the same powers to compel the attendance of witnesses as justices of the peace.

SEC. 6. *And be it further enacted*, That all orders or other evidences of county indebtedness, which shall not be presented at the time and place specified in said notice, or during the sitting of said board of commissioners, shall be held to be void; and the county treasurer is hereby directed to refuse to pay all orders bearing date previous to notice duly served by the clerk of said board of the adjournment of said board of commissioners.

SEC. 7. The said board of commissioners are hereby authorized to employ a clerk, whose compensation shall not exceed three dollars per day, who shall be sworn to faithfully perform his duties, who shall, when so ordered by said board, file the warrants and all papers belonging to said board, with the county clerk, to be kept in the files of his office.

SEC. 8. The said commissioners shall keep a record of their proceedings which shall set forth the amounts found to be due on all orders presented which are found to be correct, and shall state the reason for the rejection of all orders held to be illegal and fraudulent; and all orders so held to be illegal or fraudulent shall be so endorsed and signed by the clerk of said board and returned to the owner thereof; and it shall be the duty of the county treasurer to refuse to pay or receive any such order so endorsed, for taxes or for other county indebtedness.

SEC. 9. All county warrants, county orders, or other evidences of indebtedness which shall not be presented for liquidation, adjustment and settlement, at said adjourned meeting herein provided for, shall be held to be and the same are hereby barred by the statute of limitations, and no action shall be thereafter maintained upon any such warrant, order, or evidence of indebtedness against said county.

SEC. 10. The said commissioners shall be allowed three dollars per day, while actually employed as said commissioners, and it shall be the duty of the county commissioners to pay all expenses necessarily incurred under this act.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To attach the North half of Clay County to the County of Lancaster, and the South half of Clay County to the County of Gage.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the north half of the county of Clay, in the Territory of Nebraska, is hereby attached to and is made a part and portion of the county of Lancaster.

SEC. 2. That the south half of the county of Clay is hereby attached to and made a part and portion of the county of Gage.

SEC. 3. That the organization of the county of Clay, is hereby declared at an end.

SEC. 4. The present indebtedness of the said county of Clay shall be levied and collected by the proper officers of the said counties of Gage and Lancaster, by an annual assessment not exceeding three mills on the dollar of the valuation of all the taxable property in said portion of Clay so attached by the provisions of this act to the said counties of Gage and Lancaster respectively.

SEC. 5. That no part of the present indebtedness of the counties of Gage and Lancaster shall be levied or collected from any portion of the present county of Clay hereunto attached to the said counties of Gage and Lancaster.

SEC. 6. That portion of the school funds belonging to the aforesaid county of Clay, at the time of the passage of this act, shall be appointed by the officers who now have the custody of the same, among the school districts of said county, in accordance with the provisions of the school law now in force.

SEC. 7. That the board of commissioners of the county of Lancaster, and the board of county commissioners of the county of Gage, are hereby constituted a board to meet at such time and place, within the present year, as they may agree upon, for the purpose of receiving the accounts, books, monies, and all and any property belonging to said county of Clay, and for the purpose of the settlement of the accounts to and with the officers of the said county of Clay.

SEC. 8. The present officers of the said county of Clay shall continue in the rights and functions of their offices, respectively, until such offices be declared vacant by the above-mentioned board of com-

missioners of the counties of Gage and Lancaster, or until their successors in office be regularly appointed according to law.

SEC. 9. That the county clerks of the said counties of Lancaster and Gage, are hereby authorized and it is made the duty of each of said clerks, to transcribe and record all deeds, mortgages, and other papers, now kept in the office of the county clerk of said Clay county, which in any way relate to or affect title to any lands or personal property in that portion of said Clay county, which by the provisions of this act is attached and made a part of his, or their counties respectively, and enter the same upon suitable books provided for that purpose; and each of said clerks shall annex a certificate to the said books of record so transcribed by him, to the effect that the same are correct copies from the records in the office of the clerk of said Clay county, which said copies when so made and certified shall have the same effect and validity and the books shall in all respects be regarded and considered as records of said counties of Gage and Lancaster, respectively, and the said records and copies exemplifications thereof may be given as prima facie evidence in all courts of law and equity, in the same manner as if they had never been transcribed as aforesaid.

SEC. 10. That the county clerks of the said counties of Gage and Lancaster shall also, respectively, make copies of all awards, decisions and orders made by the county commissioners of the said county of Clay, which in any way affect any personal or real property or the rights of any person within that portion of the said county of Clay, which by the provisions of this act is attached to and made a part of their counties, respectively, which said copies, duly certified as above, and copies and exemplifications thereof may, in like manner, be given in evidence with the like effect as in the preceding section provided.

SEC. 14. That the probate judges of the said counties of Gage and Lancaster shall, respectively, make copies of all decisions, awards and orders, and of all records which in any manner affect the rights of any person or the title or right to any real or personal property within that portion of the said county of Clay, which by the provisions of this act is attached to the county of the judges so transcribing the same, which said copies, duly certified as above, and copies of exemplifications thereof, may in like manner be given in evidence in any court of law or equity.

SEC. 12. That all judgments or decrees in any courts of justice which are liens in said county of Clay, shall in no wise be affected or impaired by the provisions of this act.

SEC. 13. And the said clerks and probate judges shall receive for their services a compensation to be determined and paid by the county commissioners in which they respectively reside.

SEC. 14. That any and all rights which shall have attached by virtue of the organization of the said county of Clay, shall not in any way be affected by the provisions of this act.

SEC. 15. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

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PART SEVENTH.

TERRITORIAL ROADS.



TERRITORIAL ROADS.

AN ACT

To Locate and Establish a Territorial Road from Dakota City to the Elkhorn River at or near West Point.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That* Henry Ream, John F. Deborde and Samuel Parks, be, and are hereby appointed commissioners to locate and establish a territorial road from Dakota City westwardly to the Elkhorn river, at or near West Point.

SEC. 2. The said commissioners, or any two of them, shall meet at Dakota City on the first Monday in May A. D. 1864, or within three months from that date, and proceed to lay out and establish said road according to the provisions of this act.

SEC. 3. Said commissioners shall have power to employ one competent surveyor, a necessary number of assistants and teams, and to incur whatever other expenses may be necessary for the location and establishment of said road.

SEC. 4. Said commissioners shall make a report of their doings, and furnish a map of said road to the county clerks of the different counties through which it may pass, to be filed in the offices of such clerks, within thirty days after locating said road.

SEC. 5. That the expense of locating and establishing said road, shall be paid by the organized counties through which it may pass, in proportion to their population, as returned by the United States marshal in the last census.

SEC. 6. Said commissioners shall receive three dollars per day, the surveyor four dollars per day, and the assistants two dollars per day for each day actually employed in locating said road.

SEC. 7. This act to take effect and be in force from and after its passage.

Approved January 25, 1864.

AN ACT

To Locate a Territorial Road through the County of Polk.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That Joseph Gardner, of Polk county, be, and he is hereby appointed a commissioner to survey and locate a territorial road through the county of Polk, in this Territory, beginning at a point where the military road crosses the fourth standard parallel, thence on the most direct and practicable route, to a point known as the Eagle Island stage station, in the county of Merrick, Nebraska.

SEC. 2. It shall be the duty of such commissioner, on or before the first day of May, 1864, accompanied by a competent surveyor and such other assistants as he may deem necessary for that purpose, to proceed to locate said road.

SEC. 3. Within sixty days after the completion of the survey and location of said road, said commissioner shall file a plat of the same with the county clerk of the county of Platte, and the said road shall be deemed permanently located from and after the filing of the plat aforesaid, and after the same shall have been plainly staked and marked.

SEC. 4. Said commissioner shall receive three dollars per day, said surveyor four dollars per day, and their assistants two dollars per day each, for every day actually engaged in such work.

SEC. 5. The expense of such location shall be born in equal proportion by the counties through which the same may pass.

SEC. 6. Said commissioner and surveyor shall take an oath to faithfully discharge their duties, before entering upon the performance of their work.

SEC. 7. This act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1864.

AN ACT

To Legalize the Location of a Territorial Road from Decatur to Columbus.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the location and establishment of a county road, made by virtue of an act entitled "An act to locate a

Territorial road from Decatur, Burt county, to Columbus, Platte county, passed and approved January 10th, 1860, and an act amendatory thereof, passed and approved January 6th, 1862, by the commissioner named in said amendatory act, in May 1863, be, and the same is hereby legalized and made valid in law.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 12, 1864.

AN ACT

To Locate and Establish a Territorial Road from Brownville to the Salt Basins.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That Richard Wallinford and George P. Tucker, be, and they are hereby appointed commissioners to view and locate a territorial road on the most direct and practicable route from Brownville, by the way of Helena, in Johnson county, and Saltillo to the great salt basins in Lancaster county.

SEC. 2. That said commissioners shall meet at Brownville on the first day of May, 1864, or within six months thereafter, and after having taken and subscribed an oath or affirmation before the county clerk, to faithfully and impartially discharge their duties, as required of them in this act, shall then proceed to view and locate said road as provided in section one of this act.

SEC. 3. Said commissioners of Nemaha county, are hereby authorized to employ a surveyor, whose wages shall not exceed three dollars per day, and all other necessary assistants to carry out the provisions of this act, and as soon as practicable, after completing the survey of said road, the commissioners and surveyor shall make out and return to the county clerks of each county through which said road shall pass, certified plats and filed notes, of that portion of said road pertaining to each county, respectively, which plats and filed notes shall be filed and preserved by said clerks.

SEC. 4. The said commissioners shall receive three dollars per day for the time necessarily employed in locating said road, and all assistants necessarily employed, shall be paid such wages as the board of county commissioners may allow, which shall be allowed and paid as other claims by the several counties, in proportion to the distance said road shall pass through the same.

SEC. 5. When the return provided for in section three of this act, shall have been made, said road shall be deemed in law as established, and shall be regarded and treated in all respects as other roads established by law.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Locate and Establish a Territorial Road from Fairview in Sarpy County, to Omaha City in Douglas County, Nebraska Territory.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That James M. Arnett, Augustus B. Kean and Philip Casady, be, and are hereby appointed commissioners, to locate and establish a territorial road from Fairview in Sarpy county, to Omaha City in Douglas county.

SEC. 2. The said commissioners, or any two of them, shall meet at the house of James M. Arnett in Sarpy county, on the first Monday in April A. D. 1864, or within three months thereafter, and proceed to locate and establish said road, according to the provisions of this act.

SEC. 3. Said commissioners shall be entitled to receive three dollars per day, and as many assistants as they may deem necessary, and said assistants shall be entitled to receive the sum of two dollars per day, for each day actually employed in the location of said road.

SEC. 4. That within thirty days after locating said road, the commissioners shall make a report of their doings, and furnish a plat of said road to the clerks of the counties of Sarpy and Douglas respectively, who shall cause the same to be duly recorded in their offices.

SEC. 5. The expenses of locating said road shall be borne by the counties of Sarpy and Douglas, in proportion to the length of said road in each county.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Locate a Territorial Road from Bellevue, in Sarpy County, through Forest City, in said county, to Fremont, in Dodge County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That Robert Moscript and Wesley Knight, of Sarpy county, and Isaac Thompson, of Douglas county, be, and are hereby appointed commissioners to locate a territorial road from Bellevue, in Sarpy county, through Forest City, in said county, to Fremont, in Dodge county.

SEC. 2. The said commissioners, or any two of them, shall, on or

before the first day of May, 1864, meet at the court-house, in Bellevue, and after taking and subscribing an oath, or affirmation, to faithfully and impartially discharge their duties, as required of them in this act, shall then proceed to view and locate said road.

SEC. 3. That all costs and expenses accruing in the location of said road, shall be paid by the respective counties through which it may pass, in proportion to the distance in each.

SEC. 4. The commissioners shall be allowed the sum of three dollars per day, the surveyor four dollars per day, chain-carriers two dollars per day, and for team and teamster three dollars per day for the time necessarily employed in the location of said road.

SEC. 5. That said commissioners are required, as soon as practicable after the survey and location of said road, to cause a full statement or report of the survey and location of said road, together with an accurate map of the same, to be filed in the office of the clerks of the counties through which said road may pass, and each of said counties shall bear an equal proportion of the expense incurred in surveying and locating said road.

Approved February 13, 1864.

AN ACT

To Locate a Territorial Road from Fort Calhoun to Florence.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That D. Macdonald and Elan Clark, of Washington county, and Nelson Amsbury, of Douglas county, be, and they are hereby appointed commissioners to view and lay out a territorial road, commencing at the present crossing of Moore's Creek, thence through Fort Calhoun to a point at or near the present crossing of Deer Creek, thence southwardly to a point at or near the Sullivan Cabin, thence on the most practicable route to Florence, in Douglas county.

SEC. 2. The above named commissioners, or any two of them, shall meet at Fort Calhoun on the first Monday of April next, and after taking an oath to faithfully and impartially discharge the duties of commissioners, they shall proceed to survey and mark, by suitable stakes, a road as provided for in section one of this act.

SEC. 3. They shall have power to employ a surveyor, and all necessary help in laying out and locating said road, and their compensation shall be two dollars per day, and for all other expenses a reasonable compensation shall be allowed for time and labor actually expended in carrying out the provisions of this act; all of which shall be paid by the said two counties, in proportion to the expense incurred in each.

SEC. 4. The said commissioners shall, within thirty days after locating said road, cause a plat of the same to be made, and have a

certified copy of the plat and field-notes of that part of the road which passes through each county filed with the county clerk thereof.

SEC. 5. When the return, provided for in section four, shall have been made, said road shall be deemed in law as established, and shall be regarded and treated in all respects as other roads established by law.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved February 13, 1864.

AN ACT

To Locate a Territorial Road from Bellevue, in Sarpy County, to Elkhorn City, in Douglas County.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That* Freeman Calkins and James Gow, of Sarpy county, and Thomas Boyer, of Douglas county, or any two of them, be, and are hereby appointed commissioners to locate a territorial road from Bellevue, in Sarpy county, to Elkhorn City, in Douglas county.

SEC. 2. The said commissioners, or any two of them, shall, on or before the first day of June, A. D. 1864, meet at the court-house in Bellevue, and after taking and subscribing an oath, or affirmation, to faithfully and impartially discharge their duties, as required of them in this act, shall then proceed to view and locate said road, and shall make their return according to law, on or before the first day of August, 1864.

SEC. 3. The said commissioners are authorized to employ one competent surveyor, two chain-bearers, team and teamster, and the same commissioners shall be required, within one month after such survey, to cause a full statement of their survey and location, together with field-notes of their survey of said road to be filed with the clerks of each county, through which said road may have been laid, and said clerks shall cause the same to be recorded in their office.

SEC. 4. That all costs and expenses accruing in the location, shall be paid by the respective counties through which it may pass, in proportion to the distance in each.

SEC. 5. The commissioners shall be allowed the sum of three dollars per day, the surveyor four dollars per day, chain-carriers two dollars per day, and for team and teamster three dollars per day, for the time necessarily employed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

To Locate a Territorial Road from the West Terminus of the Steam-Wagon Road, on the Western line of Otoe County, to strike the Territorial Road running from Nebraska City to Fort Kearney, where the same crosses Walnut Creek.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska, That William E. Hill and David L. Osborn, of Otoe county, and Anderson Davis, of Seward county, be, and they are hereby appointed commissioners to locate a territorial road, commencing at the western terminus of the Steam-Wagon Road, on the western line of Otoe county, running thence westwardly on the most practicable route to strike the territorial road running from Nebraska City to Fort Kearney, where the same crosses Walnut Creek, in Seward county.*

SEC. 2. Within thirty days after locating said road, the commissioners shall make a report of their doings, and furnish a plat of said road to the clerks of the counties through which it shall run, who shall cause the same to be recorded in their office.

SEC. 3. Said commissioners shall have power to employ such assistants as they may deem necessary, who, together with said commissioners, shall receive such compensation as the county commissioners of the counties through which said road may pass, or in which said road may terminate, as they may deem just and proper, to be paid out of the county treasuries of the counties through which the road passes.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

PART EIGHTH.

APPROPRIATIONS.

APPROPRIATIONS.

AN ACT

To provide for the Payment of Services Rendered in Opening Books of Territorial Treasurer's Office.

SECTION. 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the territorial auditor be, and he is hereby authorized to draw warrants upon the territorial treasury, in favor of W. H. S. Hughes, for three hundred dollars, for the assistance rendered to the territorial treasurer in opening and posting up the accounts of the treasurer's office, prior to January 1st, 1862, in proper account books, and for opening and posting up a full list of all territorial warrants and certificates that have been redeemed at the territorial treasury.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

For the Relief of Robert Moorland for a Horse pressed and taken by Samuel Black, late Governor of Nebraska, and used and appropriated for Government purposes, and carrying on the Expedition against the Pawnee Indians, in the Summer of the year of 1859.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the territorial treasurer be, and he is hereby authorized and required to pay to Robert Moorland the sum of one hundred and twenty-five dollars out of any monies in the treasury not otherwise specially appropriated, on account of horse being

pressed into the service and appropriated for Government purposes, to carry on the expedition against the Pawnee Indians, in the summer of the year 1859, under the order and requisition of the Governor of the Territory.

SEC. 2. That the territorial auditor be, and he is hereby authorized and required to issue to the said Robert Moorland, territorial warrants for the amount above appropriated, in such sums as he may require.

SEC. 3. That previous to the issuing of said warrants, as provided for in the last preceding section, there shall be executed by said Robert Moorland, an assignment to the Territory of Nebraska, of all claims to indemnity against the United States, or said Territory, which he may or might have against the said Territory, or United States, on account of the loss of said horse.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

AN ACT

For the Relief of John Rickley.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska,* That the territorial auditor be, and he is hereby empowered, authorized and directed to draw his warrant on the territorial treasurer, in favor of John Rickley, in the sum of one hundred and four dollars and twenty-five cents, which warrant when accepted by said John Rickley, shall be in full payment by this Territory to him for all supplies and materials furnished by him to the militia of this Territory in the expedition against the Pawnee Indians, in the year 1859.

SEC. 2. That upon the acceptance of said warrant by said John Rickley, he shall assign, transfer and set over to the Territory of Nebraska, all his interest, claim and demand for the supplies and materials so furnished by him to said militia in said expedition to the exclusive use and benefit of this Territory.

Approved February 15, 1864.

AN ACT

Making Appropriations for the Expenses of the Territorial Government for the year 1864, and for the Payment of certain Claims against the Territory.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska*, That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated for the payment of the following claims :

To Bernhardt Riley, for work in the territorial armory, September 24th, 1862, the sum of three dollars and fifty cents.

To C. Alderson, for labor in the territorial armory, eleven dollars and fifty-five cents.

To Ralph Bowman, for labor in the territorial armory, May 21st, 1862, sixteen dollars.

To H. Zoller, for labor in the territorial armory, April 22d, 1862, two dollars.

To Alexander McAusland, for repairing muskets for the Territory, March 21st, 1862, twenty-four dollars and fifty cents.

To William Williams, for labor in the territorial armory, April 22d, 1862, two dollars.

To H. H. Vischer, for labor in the territorial armory, April 22d, four dollars.

To Timothy Kelley, for labor in the territorial armory, April 22d, 1862, five dollars.

To Timothy Kelley, for labor in the territorial armory, September 24th, 1862, two dollars.

To Frank Winship, for hauling muskets from the levee to the capitol, April 15th, 1862, two dollars.

To Frank Winship, for hauling arms from the levee to the capitol, August 1st, 1861, two dollars and seventy-five cents.

To Taylor & McClure, for advertising sundry proclamations issued by the Governor during the years 1861 and 1862, forty dollars.

To M. H. Clark, for advertising sundry proclamations of the Governor, during the years 1861 and 1862, thirty dollars.

To W. B. Dixon, for hauling muskets and cannon, at sundry times in April and May, 1862, eleven dollars and fifty cents.

To Robert S. Knox, for services as territorial armorer, from June 1st, 1861, to January 7th, 1864, one hundred and ten dollars.

To Robert S. Knox, for material used in cleaning muskets in the armory, two dollars and five cents.

To W. E. Harvey, salary as auditor and commissioner of common schools, for the year ending December 31st, 1864, nine hundred dollars; *Provided*, that any amount heretofore drawn on his salary for the year ending December 31, 1864, shall be deducted from the appropriation of nine hundred dollars.

To Augustus Kountze, salary as territorial treasurer, for the year ending December 31st, 1864, two hundred dollars.

For the apprehension and conviction of the murderer of Isaac H. Neff, to be paid to Thomas Sutton and Thomas Riley, two hundred dollars.

For advertising proclamations, and expenses of the territorial armory, for the ensuing year, under the direction of the Governor, one hundred dollars.

For the payment of express charges and postage upon books and public documents for the territorial library, under the direction of the Governor, three hundred dollars.

To J. W. Hollinshead, for copying the journal of the council from January 7, 1864 to January 29, 1864, sixty dollars.

To John Taffe for copying the journal of the council from January 30, 1864 to February 16, 1864, one hundred and forty dollars.

To Zaremba Jackson, engrossing clerk of the council, one hundred and sixty dollars.

To J. W. Van Nostrand, enrolling clerk of the council one hundred and sixty dollars.

To J. W. Manning, fireman of the council, one hundred and fifty dollars.

To O. F. Ingalls, page of the council, seventy-five dollars.

To Archie Powell, page of the council, seventy-five dollars.

To S. D. Bangs, engrossing clerk for the house of representatives, one hundred and sixty dollars.

To B. Stickles, enrolling clerk of the house of representatives, one hundred and sixty dollars.

To J. J. Imhoff, Sen., fireman of the house of representatives, one hundred and sixty dollars.

To Charles Isaacs, page of the house of representatives, seventy-five dollars.

To Geo. W. Fowler, page of the house of representatives, seventy-five dollars.

For fuel, stationery, and postage for the office of auditor and commissioner of common schools, fifty dollars.

For stationery, blank books, and postage for the office of treasurer, fifty dollars.

For the erection of bridges on Saline Creek, according to the provisions of an act entitled "An act to repeal an act to re-survey certain lands known to be saline, and for other purposes," five hundred dollars.

To M. H. Clark, for balance due for printing the second annual report of the commissioners of common schools for the years 1860 and 1861, six hundred and seventy-one dollars.

For the erection of shelving in the territorial library, thirty dollars.

For Charles M. Aumock, assistant engrossing clerk of the council, forty dollars.

For Reinzi Streeter, for copying the journal of the house of representatives, two hundred dollars.

For James S. Gibson, for assistance rendered the engrossing and en-

rolling clerks of the council and house of representatives, forty dollars.

For furnishing the books and blanks required to be furnished by the auditor, according to the provisions of an act to revise an act to provide for the valuation and assessment of the real and personal property and for the levying and collection of taxes in the territory of Nebraska, one thousand dollars.

SEC. 2. The territorial auditor is hereby authorized, upon the evidence being presented to him, that the parties for whom appropriations are made by this act have performed the labor contemplated or are entitled to the amount, demanded, and upon their making affidavit that the claim is just, and that they are entitled to the full amount claimed to draw a warrant upon the treasurer for the amount, which warrant shall give the name of the person, and the service for which the warrant was given.

SEC. 3. The territorial auditor is hereby authorized and required to administer the oath or affirmation required by the preceding section.

SEC. 4. The territorial auditor is hereby forbidden to issue a warrant to any person, unless there shall be an express provision of the same by law.

SEC. 5. The auditor is hereby required to advertise, at least four weeks in some newspaper published in Omaha, for proposals to furnish the books and blanks authorized by this act. The auditor is further required to send copies of said advertisement to at least six prominent blank book establishments in the east, at the expiration of the time specified in said advertisement. The auditor, together with the treasurer, shall proceed to open such proposals, as may have been received, and shall award the contract to the lowest responsible bidder, upon the delivery of the books and blanks as advertised for, the auditor shall draw a warrant for the amount as agreed upon, in favor of the person or persons furnishing the said books and blanks.

SEC. 6. The auditor is hereby authorized and required to procure a suitable warrant book, which shall contain not only the warrant but a "stub" attached to such blank warrant, in which stub shall be entered the amount of each warrant, for what and to whom issued, and the date of each warrant and a blank receipt attached to be signed by the person to whom such warrant was issued, and the auditor shall safely keep and preserve the book containing the "stubs" of all warrants issued by him.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved February 15, 1864.

PART NINTH.

JOINT RESOLUTIONS AND MEMORIALS.

JOINT RESOLUTIONS AND MEMORIALS.

JOINT RESOLUTION

For the Relief of James S. Gibson.

Be it resolved by the Council and House of Representatives of the Territory of Nebraska, That the sum of twenty-five dollars, be, and the same is hereby appropriated out of the territorial treasury, to be paid to James S. Gibson, for making out a complete list and description of all the territorial warrants of this Territory, bonded, said work having been done at the request of the committee appointed by the House of Representatives and the Council to examine and report upon the number, amount and description of territorial warrants bonded for this Territory and cancelled. And the territorial auditor is hereby authorized and directed to issue territorial warrants, for said amount, payable to said James S. Gibson.

Approved February 15, 1864.

JOINT RESOLUTION

For the Payment of Extra Enrolling Clerks.

Resolved, by the Council and House of Representatives of the Territory of Nebraska, That the auditor is hereby instructed to draw warrants upon the territorial treasurer, upon the order of the Chairman of the committees on enrolled and engrossed bills, in the Council and House of Representatives, in favor of such persons as have been employed

by said chairman, as extra enrolling clerks, at the rate of four dollars per day, each, for each extra clerk so employed, not to exceed sixty dollars in all.

Approved February 15, 1864.

JOINT RESOLUTION.

Resolved by the Council and House of Representatives of the Territory of Nebraska, That the Governor be, and is hereby requested to obtain from the Secretary's office, all of the papers connected with the claims heretofore paid by the Territory of Nebraska, (to) Lacey & McCormick, George Clayes, King & Wood, and others, for supplies, &c., furnished to the expedition against the Pawnee Indians, in the summer of 1859, and that the Governor be instructed to prepare a claim against the General Government for the recovery of the amounts paid by the Territory on account of such claims; and that the Governor be authorized to employ competent attorneys in the City of Washington, if necessary, to prosecute said claims before the proper departments; *Provided,* that no fees shall be paid such attorneys, or for services connected with the prosecution of such claims, unless such attorneys and agents succeed in recovering said amounts or some portion thereof.

Approved February 6, 1864.

JOINT RESOLUTION

For the Payment of Translating the Governor's Message, and accompanying Documents into the German Language.

Be it resolved by the Council and House of Representatives of the Territory of Nebraska, That the territorial auditor be, and the same is hereby instructed to issue warrants in favor of Francis A. Hoffman, for the sum of fifty dollars as compensation for translating the Governor's Message and accompanying documents, into the German language.

Approved January 25, 1864.

JOINT RESOLUTION

Of thanks to our Soldiers in the Field.

Whereas, a wicked and uncalled for rebellion now devastates a large portion of our beloved country, threatening its very existence, and

Whereas, Our brave men have, at their country's call, gone to fight her battles and preserve the institutions of our fathers, therefore,

Be it resolved by the Council and House of Representatives of the Territory of Nebraska, That the thanks of the people of this Territory are due, and are hereby tendered through their legislative assembly, to the brave men who have gone from our Territory to battle for the preservation of our country.

That we look with pride and satisfaction upon the record our soldiers have made since the war of the rebellion was inaugurated, and that their unsurpassed bravery on every battle field, from Fort Donelson, where the blood of Nebraska first mingled with the crimson tide of the brave of other States, who consecrated with their lives, the first great victory of the war, down to the heroic defence of Cape Girardeau, where the sons of our Territory, almost unaided, achieved one of the most brilliant and decisive victories that will adorn the annals of the present struggle, a record which commands the admiration of the world, and places us under a debt of gratitude to those brave men which we never can repay.

Resolved, That our warm and earnest sympathies are extended to the friends and relatives of the gallant dead of our Territory, who gave up their lives that their country might live.

Resolved, That the Governor of the Territory be requested to transmit a copy of these resolutions to General John M. Thayer, and also a copy to Colonel Robert R. Livingston, to be by him communicated to the officers and soldiers under his command, and also a copy to Lieut. Colonel M. T. Patrick, to be communicated to the officers and soldiers under his command.

Approved January 25, 1864.

JOINT RESOLUTION.

Whereas, The President of the United States did on the first day of January A. D. 1863, issue a proclamation emancipating the slaves of States in rebellion against the United States, a paper which has caused a greater sensation than any other since the adoption of the

Declaration of Independance by the fathers of the Revolution, and which in a moral and political point of view, is of greater moment than any other issued in the United States; and whereas, it is the duty of patriots every where, individually and collectively to do all within their power to hold up the hands of our President in his efforts to suppress the rebellion: Therefore be it

Resolved by the Council and House of Representatives of the Territory of Nebraska, That we heartily endorse the general policy of the administration, and especially the President's Emancipation Proclamation, and the arming of the negroes, measures imperatively demanded to aid in the suppression of the rebellion, and which have been wisely followed by the President's Amnesty Proclamation, a paper, statesmanlike in its views and humane in its provisions, and which creates in those portions of our land so terribly cursed and devastated with rebellion, a nucleus around which, the true and loyal may speedily rally to bring back to allegiance their native State, free from the taint of treason and of slavery, a sure guarantee of a lasting peace and the harbinger of that day when our beloved country shall become a monument of universal liberty, a nation without a traitor and without a slave.

Approved February 15, 1864.

MEMORIAL AND JOINT RESOLUTION

Relative to State Government in Nebraska.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

The Legislative assembly of the Territory of Nebraska would respectfully represent to your honorable body in congress assembled, that in the judgment of your memorialists, the people of said Territory desire the formation of a State government, and to that end they respectfully pray your honorable body to make such legislation, as in your wisdom shall be deemed necessary and appropriate to attain that object.

They further pray that your honorable body would make the usual provisions for the future State of Nebraska, by the donation of lands for schools, universities and colleges, the erection of public buildings, and the construction of railroads and other public improvements.

And they would further pray that the regular appropriation for the expenses of the legislative assembly of said Territory, for the fiscal year ending July 1st, 1865, may be set apart to defray the expenses of the constitutional convention, through the secretary of the Territory, under the same rules and regulations which govern the expenditures for the legislative assembly.

And they further pray that your honorable body will provide in such legislation, as your wisdom shall devise, that the people may at the time of voting for delegates to the constitutional convention, vote for or against a convention.

Be it resolved by the Council and House of Representatives of the Territory of Nebraska, That our delegate in congress, be, and is hereby requested to use his best efforts to procure the passage of the legislation prayed for in this memorial.

Approved January 16, 1864.

MEMORIAL AND JOINT RESOLUTION

Praying for an Appropriation to Build a Penitentiary.

To the Honorable the Senate and House of Representatives in Congress assembled:

Your memorialists, the council and house of representatives of the Territory of Nebraska, would most heartily and unqualifiedly adopt that part of his excellency the Governor's message, relative to the want of a penitentiary in our Territory. "We greatly need an institution of this kind, although the number of criminals is probably not greater among us, than in other communities of the same population, yet the security of life and property, and the good order and well being of society, demand a suitable place for the punishment of criminals, and I would recommend that you urgently memorialize congress to make an appropriation for this purpose."

Your memorialists would further represent, that as yet in our comparative childhood, we have scarcely any secure county prisons in the Territory, and that the nearest route to a penitentiary is some three hundred miles distant, and that the burden of keeping and guarding criminals is so great that many crimes are committed without fear of punishment by the law, it being well known that the chances are about as nine to one for them to make their escape before trial can be had, and that in having a secure place for the confinement of criminals would deter many from evil practices, and relieve the Territory of a class of persons unfit to live in a civilized community.

Your memorialists would therefore earnestly petition your honorable bodies to appropriate one hundred thousand dollars, for the erection of a penitentiary in the Territory, and they would further state that the saving to the general government of large amounts, annually expended in the Territory for guarding and keeping criminals, would soon make up the amount your memorialists petition for, and for which they will ever pray. Therefore,

Be it resolved by the Legislative Assembly of the Territory of Nebraska convened, That Hon. Samuel G. Daily, our delegate in congress, be, and is hereby requested to use his influence to procure the objects in-

licated in the above memorial and resolution, also *Resolved*, That the secretary of the Territory be instructed to forward an attested copy of the above memorial and resolution, to our delegate in congress, and request him to lay the same immediately before the congress of the United States, and request immediate and favorable action on the same.

Approved February 12, 1864.

MEMORIAL AND JOINT RESOLUTION

Relative to a Mail Route.

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists; the legislative assembly of the Territory of Nebraska, would respectfully represent, that there is a daily mail from Ottumwa, Iowa, the present terminus of the Burlington and Missouri river railroad, without having any mail connection with routes already established to Fort Kearney and westward.

Your memorialists would further represent, that Plattsmouth is the county seat of Cass county, and at the terminus of the Burlington and Missouri river railroad, which would afford a cheap route for the transportation of Government mails.

Your memorialists therefore pray, that a tri-weekly mail route may be established from the said city of Plattsmouth to Eight Mile Grove; thence to Weeping Water; thence to Roselle, all in the said county of Cass; thence to Shirley's Station; thence to Gregory's Basin; and thence to intersect the present tri-weekly mail route from Nebraska City to Fort Kearney, at the crossing of Saline creek in Lancaster county.

We do also respectfully represent that this route is upon the direct freight route from the said city of Plattsmouth to Fort Kearney, and would supply all the post offices mentioned herein, and that this route would dispense with the special mail route from Weeping Water, via Shirley's Station to Gregory's Basin, and that the entire distance of the route would be only about sixty miles.

For a favorable response to this petition, your memorialists, as in duty bound, would ever pray.

Resolved, That a copy of this memorial and joint resolution, be sent to the delegate in Washington, and that he is hereby requested, to use his influence to effect the speedy passage of a special act, in accordance with the prayer of this memorial.

Approved February 10, 1864.

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